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A  
VERBATIM REPORT  
OF THE CAUSE  
DOE DEM.  
**TATHAM v. WRIGHT,**  
TRIED AT THE  
LANCASTER LAMMAS ASSIZES,  
1834,  
BEFORE  
MR. BARON GURNEY AND A SPECIAL JURY.

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BY ALEXANDER FRASER,  
OF CLIFFORD'S INN,  
THE ACCREDITED REPORTER IN THE CASE.

VOL. II.

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# WILL CAUSE.

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LANCASTER CASTLE,

*Friday, August 29, 1834.*

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## SIXTH DAY.

*Mr. Thomas Parker* sworn.—Examined by Mr. CRESSWELL—How old are you?—Seventy-five.

Where do you live?—At Melling.

What trade were you brought up to?—A tailor.

Did you work at any of the gentlemen's houses near Melling?—Yes.

Had your master much business round the country?—Yes.

Did you know Wennington Hall?—Yes; I wrought there all the years I was apprentice.

How many years were you apprentice?—Seven years.

Did you know Henry Marsden?—Very well.

Do you remember his coming of age?—Yes, I do.

Was there a feast on that occasion?—Yes, there was.

What sort of man was Henry Tatham?—As sharp a man as the other was weak.

Who lived at Wennington Hall when Henry Marsden was there?—One Mr. Bayley, in the silk line, and Barnaby Dods, that farmed the land.

Did you know Mrs. Cookson?—Yes, I used to make her gowns, and Miss Tatham's too; the ladies did not make gowns at that time.

Did you make clothes for Mr. Henry and Mr. John?—Yes.

Did you know George Wright?—Yes, I did, before he went to Wennington Hall.

Where did he live before he went to Wennington Hall?—At Aughton.

Did you ever see him at Hornby?—Yes, at a public-house—at Ann Walton's; he used to be a waiter at Hornby.

Did you remember his being a servant at Wennington Hall?—Yes; Dr. Geldert got him the place; he boarded at Ann Walton's; he never was married.

Do you remember Henry Marsden being taken ill?—Yes, I was making the liveries then.

Do you know whether George Wright was about to leave the service at that time?—Yes.

Did any thing happen about the time of Henry Marsden's death; any thing that took place about George Wright leaving the service?—Yes, and about Mrs. Cookson too.

Do you know about George Wright leaving the service?—His clothes were packed up, and were then in the servants' hall, as he had got notice to quit.

Did Henry Marsden go off quickly, or linger a long time?—He went off quickly.

You were making liveries at the time?—Yes, and we were obliged to lay down the liveries, and begin making mournings.

When Henry died how was the corpse laid out?—He laid in state in the room where the tailors used to work.

Did many people come to see the corpse?—Yes, some scores.

Did you see John Marsden on that occasion?—Yes, when I was at work John Marsden would come to me and ask me to unlock the door; I have seen him take up the face-cloth, but he could not go in without somebody to shew him.

Did he go in once with you, or more than once?—More than once.

Did he seem shocked at his brother's death?—I used to go and unlock the door for the company to go and view the corpse.

Did he seem much affected about it?—Not at all; no more than that quill.

After that, did George Wright continue to live there, after Henry's death?—Yes, and Mrs. Cookson too; James Chorley was the kitchen-steward, and he got drove out of his place; four pounds wages was the amount for cleaning the boots and shoes, and going errands.

Did you say that Chorley was there?—Yes.

What was he?—He was the kitchen-steward, and he occasionally did any thing that was wanted to be done.

When he ceased, who took his place?—George Wright got to be kitchen-steward.

After that used John Marsden ever to come into the kitchen?—Yes, he did when we were at our dinner, and George Wright used to begin with him, and said "What are you doing here?" and he went away back to his own sitting-room; he used to stand before the kitchen fire.

Did that happen once, or more than once?—More than once.

Do you remember one Henry Lawson?—Yes.

Where did he live?—At Melling; he was landlord of an alehouse.

Do you remember being at a reapers' feast there?—Yes; I was at one of them myself.

Was that before Henry Marsden's death?—Yes; it was.

Did John Marsden come?—Yes; he was there.

Do you know one that played the violin?—One Robert Ripley.

Do you know whether he is alive or dead?—He is dead.

How was he dressed?—In a clown's clothes, with hounds and hares upon it, and canvass coat and trousers, with horses, dogs, and hares, painted upon them, and with a sheepskin cap, with tails to it.

What did Robert Ripley do when he was dressed in this way?—After he had done he began dancing with the girls, and he put off the clothes.

Where did he leave those clothes to dance; where did he leave the







others?—On the stair-head before he went into the room, and John Marsden put them on, unknown to any one of us; he put them on; John Lawson and me were sure he put them on, and we went to Wennington-Lower, and pursued him, and brought him back again to put on his own clothes.

Was he sober at that time?—Yes, perfectly sober; there was no drink going at that time.

After you were out of your apprenticeship did you set up for yourself?—I went to London and came back again, and then I got my master's place at Wennington Hall.

Did you learn tailoring in London?—Yes.

After you came back, did you work at Wennington Hall?—Yes.

Did you make clothes for Mr. Wright?—Yes.

Who ordered them?—He and Mrs. Cookson together.

Did you make clothes for John Marsden?—Yes.

Who ordered his clothes?—The clerk was sent for, and I measured him. I asked how they were to be made, and he said he did not know: Mr. Wright was sent for, and he said, "make them the same as mine:" John Marsden said no otherwise.

Have you ever seen John Marsden out hunting?—Yes, he got into a field where he could not get out again, and I had to pull down the hedge for him, and get him out again.

Did Wright hunt?—Yes, he had one of the best horses.

What sort of mind had John Marsden, or sort of understanding?—No more than a child of eight years of age. A child would be a great deal sharper than he was.

Did he seem to have a will of his own, or to be under control; did any person seem to manage him?—No, he walked about at Wennington Hall, and he had no man to look after him.

When you heard Wright order him out of the kitchen, did he seem afraid of him?—Yes, he seemed afraid of him, or else he would have ordered him out.

Cross-examined by the ATTORNEY GENERAL.

Was John Marsden older than you, or younger?—John Marsden was two or three years older than me. He would have been about 77 or 78, and he has been dead eight years.

Was Wright older or younger than you?—There was not much difference, sir.

How much difference was there?—That I cannot say.

You recollect him when he first came?—Yes, we were alike there then.

How old were you then?—About fifteen or sixteen.

How soon did Henry Marsden die after George Wright went there?—It might have been a year—no longer.

When Henry Marsden died, were you about seventeen years of age?—Yes, I might be, when he died, turned of seventeen.

Was George Wright, in your opinion, only seventeen at that time, was he not older?—I cannot tell.

Was not George Wright older than seventeen when Henry Marsden died?—Yes.

Was he not turned of twenty when Henry Marsden died?—Yes, I dare say he was. Henry Marsden and John were both born on the 21st day of March—a year's difference.

I do not ask about that. I ask about George Wright's age—attend. Henry Marsden lived for a year and a half after he came?—Yes.

Then when Henry Marsden died, you were about seventeen?—Yes.

I want to know, was not George Wright turned twenty years of age when Henry Marsden died?—I do not know. Old Peggy Lawson said they were born within one year.

You say he was made kitchen steward?—Yes, immediately after Henry Marsden died, by Mrs. Cookson.

You were then about seventeen years of age?—Yes.

Was not George Wright several years older than you?—Yes, he was older than me.

Was he made kitchen steward when you were seventeen years of age?—I suppose so.

Where were you born?—At High Burrow Hall.

How far is that from Hornby?—About five miles.

Were you brought up there?—Yes.

When did you first see George Wright?—I saw him many times.

Where did you first see him?—He had two brothers that lived at Hornby, Henry Wright and John Wright.

Were they older or younger than he?—They were both older; because George Wright had served part of his time to John, his brother, who was a clogger at Hornby.

Was his brother John a gamekeeper?—No, he went to Halifax, and kept the second inn.

Did the other son keep a clogger's shop when his brother served his time to him; where did George Wright's brother carry on the business of a clogger?—In Hornby.

Was he a regular clogger?—Yes, when he stopped in Hornby.

How long did he stop there?—Three or four years. I have been in his house twenty times.

How long did George Wright serve with his brother, as a clogger, do you know?—I do not know, but I know he was there.

And was it after that that he was at old Ann Walton's?—Yes; he used to be waiter at Ann Walton's, at old Hornby fair.

Was it at old Hornby fair that you saw him as a waiter?—Yes; he asked me to go in to take a drop; we went in, and had a pint a piece.

Did old Ann Walton keep an inn?—Yes.

There were no beer-shops in those days?—No.

You were making liveries when Henry Marsden was taken ill?—Yes; I was the person who came to Lancaster for them.

How long was Henry Marsden ill?—It might be a fortnight.

What was his complaint?—By drinking.

Do you mean by getting drunk?—Yes; I have rode both inside and outside of the carriage twenty times.

Did you see him while he was ill?—No person saw him, only the servant and the Doctor.

Did the Doctor go to him for drinking?—He could not drink when he was taken so ill; George Wright sent Robert Humber for the Attorney to make his will; Robert Humber was the gardener, and he pulled off his shoes to hear what he could hear, but he gathered nothing at all.

How long before he was ill had George Wright and Mrs. Cookson had notice to quit?—They had only a month's notice to quit.





You say that George Wright and Mrs. Cookson had notice to quit?—Yes.

Did you hear the notice given?—No.

How did you know they had notice to quit?—From the other servants; their clothes were packed up.

How long before Henry Marsden died was that notice given; whose clothes were they?—George Wright's and Mrs. Cookson's.

Were they packed up before Henry Marsden was taken ill?—Yes, they were.

How long before he was taken ill?—But a few days.

Then he was ill a fortnight?—Yes; but he died that very day they were to have quitted; he died with drinking.

Did the Doctor attend him?—I cannot tell, it is so long back; it is between fifty and sixty years.

But there was a Doctor came?—Yes.

How long did the Doctor attend him; did the Doctor attend a fortnight or three weeks?—Yes; for a fortnight.

You were then making liveries?—Yes; against the 21st of March.

Do you remember how long you had been staying in the house?—I dare say six weeks altogether, working at making liveries, and then to make black suits.

How long had you known Mrs. Cookson?—Ever since Henry Marsden went there.

That was only one year and a half. Did you know Mr. Cookson?—No; I never knew the gentleman; she was a widow when she came to Wennington Hall; her husband died beyond London somewhere.

Do you know how long she had been a widow before she came to Wennington Hall?—Not a long time before she came down.

About how old was she then?—I cannot say: she was old enough to be George Wright's mother or grandmother almost.

Then she must have been fifty or sixty?—She was that, or older, when she came to Wennington Hall; she was rather more by her appearance; I could only judge by her look.

You never saw John Marsden read, I dare say?—No, I never did, nor Wright either; it is likely he could do both, as he was at school, but they called him nothing else but silly Marsden, or silly Jack.

Were you there?—No, Mr. Winfield used to tell us.

Were you ever at school?—No, I never went above three weeks, I am no scholar.

Do you know any thing about science or literature?—No.

Re-examined by Mr. CRESSWELL.—You are now seventy-five years old? Yes, I was so on the 4th of June last.

Henry Marsden died in 1780?—Yes.

Were you examined at York?—No, I was not.

Were you there?—No.

Mr. FRASER, the short-hand writer, then verified the evidence of *Robert Humber*, which the Clerk of the Court was proceeding to read, when some legal objections were taken upon some of the points touched upon.

ATTORNEY-GENERAL.—Your lordship has a copy of this witness's examination. There is some matter to be proved here, of which there is not evidence. If your lordship will cast your eye forward to this examination, which took place on a former occasion, upon the issue out of the Court of Chancery, to which several other persons were parties, you will find that

any particular fact that took place in the absence of Mr. Marsden, cannot (at least as I apprehend) be given in evidence, to create any prejudice whatever, and it can only be for that purpose that it can be proposed to be given. I address myself exclusively to your lordship upon this subject. It was not thought evidence before, but it was not objected to before, because it was an issue that came out of the Court of Chancery, in which cases your lordship knows there is a reluctance to make many objections, as the issue is merely for the purpose of satisfying the conscience of the Court. Here the parties stand now in a different position. Mr. Marsden had, in the year 1826, possession of the estate. He has appointed Mr. Wright the trustee (although certainly for himself to a considerable extent) for Mr. Lister Marsden and his family after him. Now, I apprehend, for the purpose of shewing that Mr. Wright exercised a control over Mr. Marsden in making the will in question, any supposed misconduct between Wright and Mrs. Cookson cannot be evidence. If your Lordship has any idea that it can be so, I beg your Lordship will take a note of my objection, and then there is an end of it. I submit, that any particular act, whatever it was, taking place not with the privity of Marsden, cannot by any possibility have any thing to do with this cause, nor can it shew any influence in individuals over him as to making a will that was not made till many years afterwards.

GURNEY B.—I shall receive it, subject to your objection. As I have not any doubt about it, I see nothing to induce me to reject it.

The examination of Robert Humber was then read by the clerk as follows :—

*Robert Humber, sworn. Examined by Mr. BROUGHAM. How old are you, Robert?—Seventy.*

*Did you ever live at Wennington Hall, as gardener?—Yes.*

*When?—I went in the year 1770.*

*In the year 1770, and stopped how long?—Seventeen years and some months.*

*Was you gardener there all that time?—Yes.*

*Was Henry Marsden living when you first went?—Yes.*

*During that time did you frequently see John Marsden?—Yes.*

*In the garden and in the house?—Yes.*

*How often used you to see him in the course of a week?—Almost every day.*

*Now, after Mr. Henry Marsden's death, used John Marsden to go from home on a visit; from home after his brother's death?—Yes; with his aunt and Mr. Wright for some time.*

*Used he to go to visit at all?—Not when I was there.*

*Do you recollect a person of the name of Tommy Thomson?—Yes; perfectly well.*

*What was he?—We used to call him an idiot.*

*Did he live in the village?—No.*

*Where did he live?—About Wray we first had him.*

*Did John Marsden know him?—Yes; they used to be together very often.*

*What used they to do together?—They took two fancy dogs, and beat the hedges; and when the birds started up, then they hallooed together.*

*You say the hedges?—Yes.*







What sort of birds got up from the hedges?—Larks, or sparrows, or any kind of birds that frequented the hedges.

Used he to go about by himself; John Marsden, at that time?—A great deal.

Did his aunt, Mrs. Cookson, frequent the house?—Yes; regularly, after Henry Marsden's death.

Was she there before his death, also?—Yes; at times.

Did you receive any direction from Mrs. Cookson, with respect to John Marsden?—To look after him, sometimes.

Did you look after him?—Yes.

According to those directions?—Yes.

In what way did you look after him?—When he went to the necessary, or such like places.

Did you ever fetch him home when you went out?—I have staid with him when I have been ordered, and brought him in with me again.

Why did you bring him in with you again; why did he not come in himself?—I had orders to stay with him, and so I came in with him.

Do you recollect a turkey cock being there?—Yes; there were many turkey cocks.

Was there any thing particular with respect to Mr. Marsden, and that turkey cock?—He was frightened to death at him; he would have run back, and got somebody to get by the turkey cock with him.

Was there a sparrow-hawk in the garden?—Yes.

Were its wings clipped?—No, sir.

Was it tame?—Yes; I have seen it chase him out of the garden many a time; he was frightened at it.

Did you ever observe any thing respecting geese?—No, sir.

Or a gander?—Yes.

What about that?—He was as much frightened at that, as at the turkey cocks.

Where was the gander kept?—It went into the field called Wammersall.

Did he go into that field where it was?—Yes.

Where might you be?—Going backwards and forwards.

What did you see?—The gander used to hiss at him, and then he ran away.

Did you ever see him go out a-hunting?—Yes.

What did he ride?—A mare, called Daphne.

Was it a cropt one?—Yes.

Was she quiet?—Very quiet.

When he went out upon Daphne, how did he go; did he go into the field?—Yes.

How did he behave in the field?—He many times lost himself in it, and had to be shown out again.

Tell us how he rode in the field?—He kept riding round to see how he could get out.

How did he get out?—Somebody assisted him out, somebody pulled a gap and assisted him out.

Did you ever hear him say any thing about Daphne, the cropt mare?—He said he would have it put to the horse and breed cropt ones, as they were the best of horses.

In what way was the mare, Daphne, cropt?—The ears were cropt as well as they could shape.

And the mane?—I cannot say how that was.

Now did you remain there until Mrs. Cookson's death?—Yes.

While she lived there, how did she behave to John Marsden?—She had an influence over him.

What do you mean?—He was of a weak mind and timid disposition, and he did what she ordered him to do; and nothing else.

While Henry Marsden was alive how was he with respect to him?—He was the same with him as he was with Mrs. Cookson.

Now, after Henry Marsden's death, Mrs. Cookson continued constantly there, you say; was George Wright also there?—Yes.

How was John Marsden as to George Wright?—Wright had a command over him.

In what way?—He used to direct him where to sit at table, and had always the command over him, and had a complete influence over him altogether.

Do you recollect John Marsden having any servant that attended to him?—He had never a particular servant of his own. I do not recollect.

Do you recollect a person of the name of Thomas Waller being there?—Yes.

What was he?—He came as a parish apprentice.

How long had he been there when you left?—He might be there half a dozen years. I left him there.

Had you ever been there since you left?—Yes, and he was still there.

How long was that after you had left?—Two or three years, and he was still in the service.

Now what was he in the family after he came?—He acted as footboy, and then he was butler when he was qualified.

Did he look after Mr. Marsden?—I never saw him.

Do you remember on any occasion going to Mr. Lister's, at Belle Hill?—Yes.

Do you remember going with Mrs. Cookson, Mr. Marsden, and Mr. Wright?—Yes.

Do you recollect, upon any occasion, his going out a shooting?—Not Mr. Marsden. I have gone with Mr. Lister and Mr. Wright a-shooting for a week together.

You say old Mr. Lister and Mr. Wright would go out a-shooting?—Yes.

Did you hear, upon those occasions, old Mr. Lister say any thing about John Marsden to Wright?—No, I cannot recollect.

But Mr. Marsden never went out a-shooting?—Never, in my time.

I talk of the time when they were at Mr. Lister's, at Belle Hill;—He did not go at all then.

But you saw them go out?—Yes.

I only want you to recollect whether you ever heard Mr. Lister say any thing to Wright about Mr. Marsden, when they left Belle Hill?—I cannot recollect.

Do you remember being with Wright on any occasion when he bargained about some land, about selling the estate?—O, Yes.

When was that?—I cannot recollect.

How long had you been in the service?—Several years.

Who was he bargaining with?—He bargained with Mr. Roundell for Aughton Pasture.

Was the thing finished and concluded when you were there?—Yes.





Did you see any money paid?—No, I did not see any money paid, but I brought it home.

Who gave it to you?—Mr. Wright gave it to me; I stopped all night at Mr. Lister's, and Mr. Lister took care of it till I returned next day.

Where did you bring it to?—To Wennington Hall.

Who did you give it to?—To Mrs. Cookson.

By whose directions?—Mr. Wright's.

Do you know what the sum was that you brought home?—I cannot recollect it now.

Now, during the time you speak of, when you lived there, in what way used Wright to speak to John Marsden?—In an ordering manner.

Can you recollect any expressions he used to use?—I cannot recollect correctly.

Who ordered John Marsden's clothes?—Mr. Wright.

Did he ever order them himself?—I never saw him.

Now, during Henry Marsden's lifetime, used you to see George Wright and Mrs. Cookson ever walking together?—I have seen them together at the time they were copying over George Barnewell for the farmers' sons to act.

Where did they copy it over?—In a little parlour, just by the kitchen.

Was any body else in the room with them that you recollect?—No; without they had some business just in and out again.

Now, did you ever hear any thing pass between Henry Marsden and George Wright; I mean five or six weeks before his death?—Henry Marsden told me himself.—(Interrupted.)

I did not want that, unless George Wright was by; did you ever hear and see any thing when George Wright was by?—No; I did not.

Did you ever hear Henry Marsden say any thing to George Wright in the presence of other servants?—Yes.

Had you been at school with Henry Marsden?—I was at the Free Grammar School, at Lancaster.

Was he kind to you in consequence?—Yes.

While Henry Marsden was alive, in what situation was George Wright?—Butler.

Now immediately after Henry Marsden's death, what situation was Wright in?—He continued the same.

Do you recollect his going away any where?—They went to London.

Who do you mean by they?—Mrs. Cookson and him, and John Marsden.

When he came back what situation was he then in?—He was house-steward, and looked after the workmen.

What used he to be called before Henry Marsden's death?—George Wright.

What was he called when he came back?—Mrs. Cookson ordered all the servants to call him Mr. George.

Did they go a second time to London that you recollect?—Yes; the year following.

Now, what place was he put in after he came back?—Mrs. Cookson came to us, and told us that he was to be called Mr. Wright, and he was put in the place of Mr. Postlethwaite.

By PARK, J.—Postlethwaite was dead?—No; he lived some years after that.

By Mr. BROUGHAM.—Did he continue to live at Lancaster, Mr. Postlethwaite, as he had done before?—Yes.

Now, before they went to London the first time, or before Mr. Henry Marsden's death, where used Wright's bed-room to be?—In the garret among the other servants.

Where was Mrs. Cookson's bed-room?—At the far end of the gallery at that time.

After they came back from London, where was Mrs. Cookson's bed-room?—It was over the dining-room.

Where was Mr. Wright's (as we must now call him), room then?—There was a pannelled partition between his room and Mrs. Cookson's.

Was there a staircase that led into the room on one hand where Wright slept?—Yes.

What was opposite, in what situation was Mrs. Cookson's bed-room?—They went up three steps to her's, and he was next room to her.

Do you remember on any occasion any persons calling in the morning?—Mr. Seager and his son.

What did they call for?—They wanted to see Mr. Wright to be forwarded on his journey.

What were they?—They were manufacturers.

What did you do in consequence of their wanting to see Wright?—I was coming out of the garden, and he wanted somebody to go and acquaint Mr. Wright.

Nobody went?—No every one was laughing at another. I said if they would not, I would do so.

Did you so?—Yes?—I knocked three or four times, and nobody answered, then I opened it and looked; I stopped and looked, and then he came out of Mrs. Cookson's room, with his clothes upon his arm; I told him who wanted him, and I went away; he had his clothes over his arm; I saw nothing but his shirt that he had on.

You were standing at the three steps, when he came out, did he do any thing when he saw you there?—He rather gave back, but we never mentioned it to each other afterwards.

Can you tell about what time that was; how long after Henry Marsden's death?—I cannot rightly say.

About how long?—It would be two or three years.

After Henry Marsden's death?—Yes.

Now, there was a park and deer in it at Wennington Hall?—Yes.

Used the people in the parlour to amuse themselves by putting leaves out for the deer?—Yes; with leaves and pea swards, which they regularly threw down for their dinner; they used to throw them down at the time.

Do you recollect on any one of those occasions when you went into the room with leaves, did you see any thing?—I recollect when I opened the door to get a basket with leaves, I saw Wright draw his arm out of her bosom.

From what you saw of John Marsden, during all the time you were there, did you judge him to be a man capable of managing his own concerns?—He never was and never could be the person that acted in that capacity, on any occasion whatever.

Cross-examined by Mr. POLLOCK.—Mr. Humber, I believe you never saw him at Hornby Castle?—Many a time.

Did you live at Hornby Castle in the family at all?—I was on board







wages for upwards of twelve months when they went backwards and forwards to Hornby.

How long did you continue in the service ?—I continued from 1777 ; I was there seventeen years ; that would be till 1794.

And then you were there a year at Hornby Castle, as they came there in 1793 ?—Yes ; I went backwards and forwards between that and Wennington Hall.

Were you gardener all that time ?—Yes.

Then you recollect Wennington Hall before Henry Marsden took possession of it ?—Yes ; I recollect it before he came of age.

Where has Mrs. Cookson resided ?—At Clithero.

After the year 1794 did you ever exchange one word with Mr. Marsden ?—It is thirty-six years since I spoke to Mr. Marsden.

Were you one of the servants that slept at the house at Wennington ?—Till I was married I did.

When were you married ?—In 1782, and Henry Marsden died in Spring ; I was married in the November following.

From that time did you sleep in the house ?—No ; I did not.

Where did you and your wife live together ?—In Wennington, and I got my meals there occasionally.

How many servants did they keep ?—I cannot recollect.

About how many ?—Four or five.

Did any of them sleep with Mrs. Cookson ?—Yes ; Rebecca Dudding acted as her maid.

And slept with Mrs. Cookson ?—At times.

Did not Rebecca Dudding afterwards marry George Banks ?—Yes.

About what time ?—I cannot rightly tell what time it was.

Was it before or after Henry Marsden's death ?—Yes ; but they neither of them were servants then.

And they were sometime in service before they married ?—Yes.

They did not marry till after Henry Marsden's death ?—No ; It was a good many years.

Mr. POLLOCK.—George Banks was a witness, my lord.

You went up into witness' room ; you went into the room when you received no answer after knocking ?—Yes.

The bed had been slept in ?—Yes ; it was.

Wright's bed had been slept in ?—Yes.

You say you and Mr. Wright never mentioned this to each other ?—No, never afterwards.

Did you do it at the time ?—I did that forenoon ; I said something to him.

We have not had that out yet ?—We never mentioned it to each other after that time.

Did you ever mention it to any body else ?—Yes ; I mentioned it to her that I made my wife.

I believe she is dead ?—She is.

Did you ever mention it to any body else ?—No ; I cannot say that I did.

When did you mention that circumstance after that day, except to your wife, who is now no more ?—That I cannot say rightly when I did mention it.

Have you ever mentioned it till within the last two or three years ?—No ; I cannot say that I have, only to her.

How long has your wife been dead ?—Twenty-three years.

Mention any one to whom you mentioned the circumstance after the death of your wife?—I mentioned it to Mr. Upton's servants.

Who is he?—Of Ingmire Hall; we were talking about how Mr. Wright was going on, and it led to that.

That was since the death of John Marsden?—I do not know when he died.

Is it within the last two or three years?—Yes.

You say you took your meals at Wennington Hall?—Yes.

Did your wife go there?—She was a servant there when we were married; in November we were married.

Was she a servant there some time?—She used to go there occasionally when they wanted a servant, till they got one.

And then she was constantly there from that time?—Yes.

Did you ever mention this fact to Mr. Higgin?—I mentioned it before the commissioners.

Had you ever mentioned it; how long was it since you were before the commissioners?—Three years ago.

When did you mention it first; to Mr. Upton's servants, or to the commissioners?—To Mr. Upton's servants.

How long before you mentioned it to the commissioners?—About half-a-year or three quarters.

You say you spoke of it to Wright that morning?—Yes; but we never mentioned it since.

Before the commissioners; did you ever tell Upton's servants, or any body, that you spoke to Wright of it?—No.

Did you ever mention that you spoke to Wright about it till this moment?—Yes, I said to the commissioners that I spoke to Wright about it that morning.

What did you say to Wright about it?—I just talked of it like a little bit of fun, about his having his clothes in that form.

Go on; was that all?—Yes, it was just as a little joke.

How many years had you been married when you saw this, you say you saw?—About a year and a half, or two years.

Then it must have occurred about 1781—1782?—Yes.

How old were you at that time?—I cannot rightly say, I am seventy now.

Then you would be about twenty-one or twenty-two at that time?—Yes.

Do you remember the expressions of fun that passed between you and Wright that morning?—I cannot say rightly.

It was a circumstance that made a great impression on you then, was it not?—Yes; I cannot recollect because the servants when together had often fun together.

Did he mention it to you, or you to him?—No, I mentioned it to him.

Now what did you say to him, what sort of expressions did you use?—I cannot recollect it, he turned off and laughed.

But what did you say to him?—I cannot recollect now, it is so many years ago.

Do you mean you have not the slightest notion?—No, I have not.

How long after was it that you say you saw him draw his hand out of her bosom?—It was not long after.

Whereabouts were they in the room?—Standing at the dining-room fireside, their backs were towards me, one had the face towards me, and the other the back.





Which of them was facing you?—Mrs. Cookson.

Mr. Wright had his back to you?—Yes; she was standing with her face to him, and she drew his hand out in that form; the fire was here; her face here, and his to hers (witness demonstrating it.)

Now, I ask you what were John Marsden's amusements, what sort of dogs was it he went out with when he joined Tommy Thompson, the idiot?—Ladies' fancy dogs, which we call lap dogs.

Did you talk over that a little bit?—Yes; I have talked of it.

Have you any judgment in music?—I sung at Melling church for 5 years.

Did he play upon the fiddle?—He squeaked away with it, but I never heard him play a tune.

It was mere nonsense?—It was merely an amusement.

Could he play a note?—I never heard him.

It was merely making a noise?—Yes; it was making a vile noise with the fiddle.

Was it a very bad noise?—Sometimes it was one thing and sometimes another; it was sometimes tenor and treble, and sometimes bass, and all just as if he laid the sticks upon the strings by chance.

Have you often heard him play upon the fiddle?—I have both heard him and seen him many times.

Did he play a great deal upon it?—Yes; it was a particular amusement for him.

He would spend hours and hours together with it?—Yes; he would sometimes play in the dining-room, in the hall, and in the parlour.

Did he play on more than one instrument, both the violin and bass?—Yes; I have seen him play upon the bass violin just the same as the other.

Do you know if he could read?—I never saw him either read or write in my life.

Now you have been examined before the commissioners?—Yes.

You have seen him ride?—Yes.

How often have you seen him ride?—I cannot say. I have seen him often upon that mare, Daphne.

You have seen him hunt?—Yes.

Did he ever ride but when he was hunting?—No; I cannot say that he did.

Who used to ride with him?—Sometimes the groom and sometimes the footman used to ride with him to take care of him.

They did not ride on horseback with him?—They went out with him to attend him.

How long have you known him to be riding in that way?—Several hours.

Did you ever go out with him?—No; but I have shown him out of a field when the servant, who should have taken care of him, left him in the field.

How far was that from home?—Three, or four, or five miles.

Did you ever see him ride any thing but the mare Daphne?—No; he never did.

How often did he go out hunting in this way?—Very often.

Did he ever go out with the hounds at all?—Yes; when they went out at the first.

Do you happen to know what accident happened?—Yes; the mare Daphne ran away with him.

What happened then?—A distressing circumstance happened ———

Did he afterwards ever ride on horseback?—I never saw him afterwards.

Was he long confined after that?—Yes.

How long?—I cannot say.

Who attended him as his medical man at that time?—Dr. Bickersteth, an old man.

He attended him for many weeks?—Yes.

Was he the only medical man that attended him?—I am not sure; but I know he did.

For a long time?—Yes.

I believe after that you never saw him ride at all?—No; I never did see him ride afterwards.

You left the service?—Yes.

I suppose you went away of your own accord; you were not dismissed?—No; I was not.

There was perhaps no imputation against you at all?—No, Sir.

You mean to say none?—I was sent to Wennington to keep the garden in order, and then I went to Mr. Upton's of Ingmire Hall.

Was there never any imputation against you of any sort?—Not that I know of.

Had you a child by another woman?—No.

Never after you were married?—No.

There was never any sort of rumour nor charge made against you at all?—No; there was not, I never heard tell of it.

Re-examined by Mr. BROUGHAM.—You say that Rebecca Dudding used at times to sleep with Mrs. Cookson?—She did.

Was she in the service at Mr. Henry Marsden's death?—No; she was in no service then.

When did Rebecca Dudding come into service?—About a year after she succeeded my wife.

What time of the year was it that Mr. Seager came that morning. What time of the year?—In the spring.

At what time were the maid-servants up in the morning?—Before six sometimes.

And this was seven?—Yes.

Now you say you went from there to Mr. Upton's immediately?—Yes.

You remained there for fourteen years and a half?—Yes.

And you say you never heard John Marsden play a tune?—No.

Did you never hear him play a part of a tune?—No; I never did.

Was Wright and you nearly about the same age?—He was rather older than me, but how much I cannot say.

You never had any conversation with him about it after that forenoon?—No; never.

Were you ever asked about that before, about mentioning it to George Wright?—No; I told it to the commissioners.

By Mr. POLLOCK.—About the bit of fun?—No, I cannot say that, but only about the act itself.

By a Juror.—What was the age of John Marsden at the commencement of the service of this witness, in the year 1777?—I cannot exactly say; there was a year and six hours difference between Henry Marsden's age and his, they were both born on the 21st March.







How old was Henry Marsden when he died?—If he had lived to the 21st March, he would have been twenty-three.

By PARK, J.—That would bring him down to 1777, and the other was nineteen in 1777, when you went?—Yes.

PARK, J.—He would be nineteen.

*Mr. Fraser* was next called to verify the examination of Mary Denny, as transcribed from his notes taken on the trial at York.

The clerk of the court then read the evidence of Mary Denny as follows :—

*Mrs. Mary Denny* sworn. Examined by Mr ALDERSON.—How old are you?—I am going of seventy-three.

Where do you live?—I live at Wray, when I am at home.

Did you remember Henry Marsden, when he was alive?—Yes; perfectly well.

Were you servant in the family?—No; I was the landlord's daughter.

Did you live in the same village?—Yes.

At Wennington?—Yes.

Do you remember living at Wennington Hall?—Yes.

With Mrs. Cookson?—Yes; at the latter end of the time.

How long before Henry Marsden's death did Mrs. Cookson come?—I cannot say.

About what time?—It might be a couple of years or a year and a half.

Was she with them at the time that Henry Marsden died?—She was.

Was John Marsden living with his brother Henry?—Yes.

What sort of a young man was John Marsden at that time in point of intellect?—A very weak body and very foolish ideas.

How did he use to employ himself in those days?—He rambled about from neighbour's house to neighbour's house, and talking such like stuff as he was master of.

What sort of stuff was that?—Quite childish; quite so.

Did they call him any names in those days?—Yes, they used to call him silly Jack.

Did he go by that name in the village?—Yes.

Were you foster sister to Henry Marsden?—Yes, my mother nursed him; he always respected me as his sister.

Was Henry Marsden a man of good understanding?—Yes, he was quick as air.

Do you remember the mother?—Yes.

Who married her?—She married Colonel Bailey.

Did she come over to see them when Henry was alive?—Yes; she used to come and see her sons. She respected her sons very much.

Was she on good terms with them?—Yes; I never knew any thing to the contrary.

Did you know where she lived at that time, when she was at home — At Lancaster.

Now in those days, did John Marsden use to fiddle?—He made a noise.

By PARK, J.—By way of fiddling?—Yes.

By Mr. ALDERSON.—What else did he use to do?—He used to come to Wennington Green, every day, when the fit took him.

Was he a bold man?—I never saw him so.

Did you ever see him with a pig or dog?—He never would touch them; he used to go back unless I set him by them; he used to say he was afraid of those articles; he did not recollect the name of them, and then I used to say they were pigs; and he said, "O! the pigs, O! the pigs! drive them back. I used to question him by himself, to learn him to count, but I never could.

Did you ever try to teach him what was o'clock?—Yes.

Could you ever succeed in that?—If he said he could do it then, he was as ignorant the next day as ever.

You used to set him past the pigs?—Yes.

Have you ever seen him afraid of any thing else besides the pigs?—He used to come up besides them, and I said, "you need not be alarmed, as they will not hurt you."

How old were you at that time?—I was about twenty-one; he was older than me.

Were you much younger than Henry?—Henry was older than John by one single year.

How much older than you?—About three years older than me; he was the age of my brother.

Did your mother suckle your brother and him at the same time?—Yes.

Did you succeed in persuading him that they would not hurt him?—I never could do any good.

Was he afraid also of dogs?—Dogs and any thing; he would have run a quarter of a mile, if he had the strength.

Were there any servants at Wennington Hall?—Yes.

Who was the head-steward?—George Mashiter was the head.

Who was the house-steward?—James Chorley.

Was Mr. Postlethwaite the attorney-at-law?—Yes.

What was Chorley?—House-steward.

Do you remember George Wright coming to the house?—Yes, I think I do.

Who recommended him?—My father and Dr. Geldert recommended him, but we did not know his character.

Who was Dr. Geldert?—He lived at Hornby, a surgeon.

Did he use to have a horse?—Yes.

Who took care of his horse at that time?—I cannot say.

Did George Wright come to Wennington Hall?—Yes.

Was that in Henry Marsden's time?—Yes.

How long before Henry Marsden died, did George Wright come?—I cannot tell.

As near as you can tell?—Henry Marsden, Esq., gave him notice to depart his service.

When was it that he came into the service; how long before Henry Marsden's death?—The space of a year.

What did he do in the house, when he first came?—He was hired to be a waiting-man.

Do you remember Henry Marsden's death?—Yes.

After Henry Marsden died, did you ever see Mrs. Cockson and Wright together?—I have.

How soon after Henry Marsden's death?—Within a few days; they went to London in a few days.





Did John Marsden go with them?—I do not know, but I missed him; at least they left Wennington Hall.

Do you remember their coming back to Wennington Hall, whether from London or not?—Yes.

After they came back to Wennington Hall, did you ever see Mrs. Cookson and Wright together?—Yes.

In what way?—Arm in arm, walking about.

Was that more than once?—Yes; more than once or twice, either.

Whereabouts were they walking?—Upon the field, in the green, and upon the estate.

After that, was Wright's situation changed in the family?—He began to be a very great umpire.

What became of Chorley?—He turned Chorley out of his place.

Who succeeded Chorley?—Wright told him he would turn him out.

And he did go out, and Wright succeeded him?—Yes.

What became of Postlethwaite: did he continue there?—I think he died.

What did they use to call George Wright, after that?—Mrs. Cookson ordered the servants to call him Mr. Wright.

Did they, after that, call him Mr. Wright?—Yes.

What had he been called before?—Nothing but George.

Did that continue till they left Wennington Hall?—Yes.

What became of him, after that?—I have seen him often after that, but what I heard was hearsay.

Cross-examined by Mr. POLLOCK.—Did your father keep a public house?—Yes.

In what situation were you?—I worked there.

Did you help your father in keeping the house?—Yes.

Did you serve beer to the customers?—Oh! yes, yes.

You were the bar maid?—No; my mother was the bar maid.

You were under bar maid?—Yes—No; I was the drudge.

Were you ever in service, in Wennington Hall?—No, Sir.

Did you ever dine there?—No.

Did you ever take any meal there at all?—I have been at Henry Marsden's, at his dances.

But after that time?—No, never.

Perhaps you were very little at the house?—Not much.

Where have you heard John Marsden play, or make a noise upon the fiddle?—I never heard him play much upon it.

Do you understand music?—A little.

Could John Marsden play at all?—I do not think he understood music. God bless me! he understood no music.

Not a note?—No, no; misunderstandings makes false answers.

Do you understand music?—A little.

Did he understand music, at all?—O! no, no; only to scrape a little.

Do you mean to understand any thing of it?—No; I dare say, nothing of the kind. His brother Henry could have fiddled very well.

But his brother, not at all?—He made a noise.

Could he not play a single note?—I have heard him make a noise, and I have got out of hearing as fast as I could.

He could not make a tune at all?—No; I could not form it into any thing.

You tried to make him count?—Yes.

How far could he go? Could he count two or three?—I never could get him to count above two or three; he could not count as far as eight, although he tried twice.

You tried to teach him the clock?—Yes.

Where was it you gave him lessons in counting?—In my father's house.

What part of the house was it?—Where the clock was.

Was that in the public room?—In a public place.

Was it in the house?—Yes.

Was he there very often to be taught counting?—Yes; he would come sometimes three or four times a day to be taught counting; he was after seeking for liquor.

Was he fond of liquor?—He would lick up any body's glasses that were in the house.

Was the place where he counted—was that a public room?—Yes.

Where people came to drink?—To drink and sit down.

Had your father more rooms than one?—Yes.

How many rooms?—One parlour, and this was the house-part.

Was that where people came in to drink—Yes; the front door opened to that place to the parlour.

How did you teach him to count?—I said one and he said one, and I said two and he said two.

You said four and he said four?—Yes.

And five and five?—Yes.

But when he got to eight he could not go further?—He could not.

Could he count as much as eight?—When I counted before him.

Could he count as much as eight by himself?—No.

Could he count as far as four?—I cannot say, it is so long ago.

And used you to sit down in this room, to count together?—Yes.

What did you sit on?—On chairs.

You at the one side, and he on the other?—Yes.

And you counted with him, and thought you could learn him?—Yes.

You were twenty-one?—Yes.

And he was what?—He was twenty-two.

How old were you?—Twenty-one.

How old was he?—Twenty-two.

Was it you, or your brother, that was the foster brother to Henry Marsden?—It was my brother.

PARK, J.—That is the rule, where there is one of the brothers in a family nursed, they are all foster brothers and sisters.

You said he could not count twelve on the dice—did you ever say that?—No; he could not.

Did you ever try?—I have.

What do you mean by twelve dice?—He could not count twelve numbers.

Had you twelve dice, in the house, to count with?—Yes.

Had you six pair of dice?—Yes.

You mean you had twelve little different squares in the house?—Yes.

What had you them for to play with?—We had them given us.

Who gave you them?—Different people, who were tired of them.

You said that sometimes he did not know the name of a pig?—No; he did not sometimes.

You were obliged to tell him it was a pig?—Yes; and when it was a large one, he thought it would devour him up.







Was he weakly made, or a stout young man?—He was very well shaped as a man, but he was very weak in sense.

He was afraid of every thing?—Yes.

He was not afraid of you?—No.

He was afraid of sheep?—Yes.

And what else?—Of geese.

Anything else?—A goat.

Anything else?—Dogs.

Was he afraid of a chicken?—I cannot say that; but a dog he durst not go by.

Did he come to you at the house?—Yes.

To get you to set him past the pigs?—Yes.

Every day for how long?—Every day for a gay few months, till I was quite tired.

How far used you to go with him?—I set him by a good bit.

Did he come to you alone?—Yes; there was nobody to take care of him.

So he asked you to take care of him?—Yes.

How far used you to go with him?—Down the green.

Anything further?—No.

Where did he go after he passed the green?—He used to run back.

Where had he been then from his father's house; did he call on you on his way home or in his way out?—He said he durst not go home.

How did he get abroad?—I cannot say how.

Did he call upon you every day for the sake of going home?—When the pigs were turned out.

Did he ever call upon you to set him out to go abroad?—No; it was only to set him by the hedges.

You have seen Mr. Wright and Mrs. Cookson three or four times walking arm in arm?—Yes.

Upon the green?—Yes.

That is a public green?—Yes.

Re-examined by Mr. ALDERSON.—Was it before or after Mr. Henry Marsden's death?—After they returned from London.

Are there pigs every day upon the green?—Yes, there are pigs in the town; they turned them out upon the green.

Do you mean to say there are pigs every day upon the green?—Yes; then there were.

Did you keep an account of the times he used to come?—No; not in particular.

Do you mean to say that he came every day, or only occasionally?—He came for a week or a fortnight every day.

Did Henry Marsden use to come to your house also?—Yes.

How far is your house from the gate of Wennington Hall?—I cannot say; it is a fine walk.

But is it a quarter of a mile?—I cannot say; it is more or less.

Did you walk with him in his way home?—Yes.

Did you set him past the pigs on his way home?—Yes, Sir, I did.

Was it his habit to come to your house every day?—He was seeking after liquor; he drank people's glasses.

Did Henry use to come in the same way?—He durst not have come if Henry had been there.

What did you tell him to count with?—With these dice: we counted the number by putting the dice one after another.

Did you ever know any copper or half-pence used—did you ever use any thing else besides dice?—No, Sir; he never had any copper.

By PARK, J.—How old a woman was Mrs. Cookson when you saw her walking with Wright?—She was then sixty years old it was said.

Did she use a stick, or was she lame?—O, no; she made herself as gay as she could.

I think you said, that when Henry Marsden was alive you used to go to balls at his house?—I went to the dances.

What sort of company did you meet there, when the daughter of an alehouse keeper was there?—Tenants' daughters and sons.

You are quite sure that he used to lick up the liquor left in the glasses at the alehouse?—Yes.

Did he use to drink up the dregs and bottoms of the glasses?—Yes; and if there was a gay sip he would take it.

Used he to take it up if there were some in the bottom?—If there was any thing he thought worth while he would take it up.

*James Wright* sworn.—Examined by Mr. STARKIE.—Do you live at Rampside?—Yes.

In Low Furness?—Yes.

By GURNEY B.—You were not examined at York?—Never there, my lord, never till now.

By Mr. STARKIE.—You were never examined in court before?—No.

What age are you?—Going of eighty-two.

Did you at any time farm the Hall Farm at Rampside?—Yes.

That is close to the sea-shore?—Yes.

Do you recollect George Woodburn, the landlord?—Yes; very well.

Did he keep an inn near your house?—Yes; within fifty or sixty yards of me.

Do you recollect any time Mr. Wright and Mrs. Cookson coming to the sea-side?—Yes.

How long ago was that?—Between forty and fifty years; I do not know the year.

Was that during the bathing season?—Yes; the shooting season; both bathing and shooting season.

Did they come one season, or more than one season?—They came two, I think.

Were those two in successive years, the one after the other?—I do not recollect, but they were down twice.

Was Mr. John Marsden with them?—Yes; they called him 'Squire Marsden.

Was Mr. Wright a young man at that time?—I do not know what age he might be; between twenty and thirty, I think.

Was he a good looking young man at that time?—A very nice young man, about five feet ten.

What age should you have taken Mrs. Cookson to have been then?—An old lusty woman.

What would her age be?—By her looks she would be more than sixty.

Did you see the young 'Squire Marsden from time to time when he was





there?—Yes; he used to walk on the green every day, between the houses and the shore.

How used they to employ him when there?—In nothing particular.

You saw him every day?—Generally when I was there I saw him.

What was he doing there?—Amusing himself like a child; I think I never spoke to him, as I could not do so, for he shyed off, and went about twenty yards away from me.

Did you ever see him doing any thing there?—I saw him with a fiddle, which he clapped to his shoulder, and imitated playing.

Did he make a considerable noise?—It was a mere noise.

Were there any geese on the green that you speak of?—Not any.

Have you seen 'Squire Marsden when there were any geese near?—No; but I heard some people say they have.

GURNEY, B.—(To the witness.)—Do not talk of what you heard other people say, but answer the question put to you.

Did you yourself see any?—No.

Do you know whether he was afraid of dogs?—I did not see him when dogs were near.

Do you remember going to a place called Cuckold Hole?—It stood in my farm; I went close by it.

Did you see any person there as you were going?—I was going to look after my sheep; I was going along the hedge side.

What did you see?—I saw a man lying in the ditch side; there was a fence on one side and a ditch on the other.

The ATTORNEY-GENERAL.—I object to this, my lord; Marsden not being there it cannot be evidence: your lordship will at least take a note of it.

GURNEY B.—Yes; I will take a note of it.

You saw a man there, who was that man?—I do not know.

How was he dressed?—I do not know.

Did you know who he was afterwards;—the person you saw?—I afterwards knew who it was; it was Mr. Wright and Mrs. Cookson; they started up out of the whinns, and then I knew that the man was Mr. Wright.

Did you look back?—I was passing by when they got up.

Did you see them get up?—Yes; I saw them get up, when they got above the whinns.

Then you know who they were?—Yes, to be sure.

Did they go away together?—They went back the same way they came in; they could not get any other way.

What height might the whinns be?—About such a height as my hand is now from the ground—(demonstrating it).

Did you see them go off?—They laid still till I was out of sight.

There was no cross-examination of this witness.

*John Smith* sworn.—Examined by Mr. ARMSTRONG.—How old are you?—Sixty-seven.

Were you servant at Wennington Hall?—Yes.

In what capacity?—I was coachman and groom, and then after that I was footman.

When did you go into the service at Wennington Hall?—I cannot exactly tell, but it may have been forty-nine years ago.

How many years did you live at Wennington Hall?—More than twelve.

Did you afterwards continue in the service, when the family removed to Hornby?—I did, but not in the house.

Were you married then?—Yes.

Whom did the family consist of when you first went to Wennington Hall?—Mr. Marsden, Mr. Wright, Mrs. Cookson, Miss Tatham, and Mr. Henry Tatham.

Who hired you?—Mr. Wright.

What kind of a person was Mr. Marsden when you first went there, in point of understanding?—He had a very slender understanding.

That was your first observation when you first went to live with him?—Yes.

Was he capable at that time of managing any business?—He did no business at all; I do not believe that he was capable.

Did he appear to be his own master at that time?—Not at all times.

Who, or what, prevented him?—A look from Mr. Wright prevented him; if he was taking a glass too much, a look from Mr. Wright would have prevented him.

Do you remember in the year 1782, Mrs. Cookson going to London?—Yes.

Did you afterwards go up to London with Wright and Marsden?—Yes; I did.

How long after Mrs. Cookson had left Wennington, did you go?—About a fortnight.

When you had got there, had Mrs. Cookson got lodgings in London?—Yes.

Where were they?—In Southampton Row, No. 23.

Do you remember going there, the night after you got to London?—Yes; we went the same night; we went right away there; we did not stop any where else.

Did you on that night, after you had arrived there, go into the sitting-room?—Yes.

Had the bell been rung?—No; it had not been rung; I went in by accident; Marsden had forgot something, and he sent me, and I went up.

On going into the room, who did you see there?—Mr. Wright and Mrs. Cookson.

In what situation were they, were they in an improper situation?—Yes.

**THE ATTORNEY-GENERAL.**—Your lordship will understand that I object to this evidence.

**GURNEY, B.**—Very well.

In such a situation as left you no doubt what inference to draw?—None at all.

Whilst at Wennington, did Wright and Mrs. Cookson walk out together?—Yes; sometimes.

Have you seen Marsden with them?—Not often.

Have you seen Marsden with them?—He was sometimes at some distance from them, but not actually in their company.

How did he employ himself?—With his fiddle when he was not walking out.

How did Mrs. Cookson address him?—By the name of Jack.

Did you ever go out with the hounds with Marsden?—Yes; very often.

Did you receive any direction from Mrs. Cookson about him?—Yes; to take care of Jack.







Was Mr. Marsden fond of getting liquor of any kind?—Yes; he was, when Mr. Wright was not at home.

And did he?—Yes.

When he was in that state, could the people about the place manage him, if Wright was from home?—Yes; they could manage him; he used to go into his room, and very seldom any one attended him but me: at least, whilst I was his footman.

Was there any thing particular in his manner and behaviour to you, when in his room?—Nothing very particular; only he used to strike at me, and used to tell me he was a very valiant man.

And what used you to do?—I tumbled over, when he struck at me.

Did he make any remark about Wright when you tumbled over?—He said Wright was a very strong man indeed, and he himself was so also.

Had Mr. Marsden a cropped mare, called Daphne?—Yes.

Did he ever say any thing about the breed of that mare?—Yes, he said he wished they would breed all croppies, when he went a hunting.

Do you know whether Mr. Marsden took any particular notice of checked aprons?—Yes.

Were you ever out hunting when he saw a checked apron on the hedge?—Yes.

What effect had that upon him?—When he saw one upon the hedge, it had the effect of stopping him when they were in full view.

Did you ever observe him take notice of a checked apron in the house?—

Yes; very often.

In what way?—When they were hanging to dry, he would try to get one, and bring it to his room, and bring it down in the morning before the servants got up.

If he saw a girl with a checked apron on, what effect had that upon him?—He used to stop, and admire it very much.

Was he a bold rider?—Only up a hill.

How would he get out of a field, if he got into it?—He used to lose himself; I very seldom left him, but if it happened so, he would lose himself.

Was there a turkey cock at Wennington Hall?—Yes; more than one.

Did you ever see that run after Mr. Marsden?—I cannot say I ever saw it run after him, but he used to be very frightened; he used to send me to see on which side it was, and the gander.

Was that before he went out himself?—Yes.

Do you know whether he was afraid of pigs and dogs?—Yes; he was.

And did this continue all the while you were at Wennington Hall?—Yes.

And afterwards at Hornby Castle?—Yes.

As far as you know, he was always the same, a timid man?—Yes.

Now, have you ever seen Mrs. Cookson give him any letter to copy?—Yes, I have.

Have you seen him bring it back to her?—Yes.

More than once?—Yes; or twice either.

On his bringing it back, did he bring what he had written himself?—Yes; I suppose so.

What did Mrs. Cookson do with it?—She corrected it.

And when corrected, what did he do with it?—He took it to his room, and came back again.

Did she look over it again?—Yes.

How often was this sometimes done, before any one would do?—Half-a-dozen times, or five or six times.

When it would do, what did Mrs. Cookson say to him?—I cannot say.

What became of these pieces of papers?—He used to tear them into bits, and I have taken them up off the carpet in his room.

You heard Mrs. Cookson giving him these directions, did you? Did you ever see Wright correct any of them?—No; Mr. Wright has been in company when Mrs. Cookson had done it, but I do not know of his doing it himself.

Whilst you were at Wennington Hall do you remember going to Buxton?—Yes.

Who went with you?—Mr. Wright, Mr. Marsden, Mrs. Cookson, and the lady's-maid.

Mrs. Cookson was then unwell?—Very unwell.

Did Wright return and leave you at Buxton?—Yes; all the party remained at Buxton but Wright, who returned to Wennington Hall.

Whilst you were at Buxton, after Mr. Wright had gone to Wennington Hall, do you remember Mr. Marsden having some quarrel with an Irish gentleman?—Yes.

Was the gentleman at the same hotel that you were at?—Yes; he was.

Did Mrs. Cookson see the gentleman after the quarrel?—Yes; I saw her see him; I was present.

Where was Marsden then?—He was in his room.

Who had ordered him to go to his room. Had any body ordered him to come up or go to his room?—Not just at that time, but I did hear it afterwards.

**THE ATTORNEY-GENERAL.**—I will not object; it shews I am not too captious.

What did you hear Mrs. Cookson say to the gentleman who offended him?—(No answer.)

**THE ATTORNEY-GENERAL.**—I find I must object. Does your lordship think that is evidence?

**GURNEY, B.**—Considering what was opened, I cannot say that the conversation she had with a gentleman is evidence of the reason why he was not to be blamed.

**SIR JAMES SCARLETT.**—An apology was made for him, and that is the mode of treating him. It is on the same ground of admissibility that these letters were received to shew how those other persons treated him; it is a very important fact to get. I apprehend it is important, to shew that her apology made for him; it is part of the same transaction.

**GURNEY, B.**—You opened that it was Wright that wrote those letters?

**SIR JAMES SCARLETT.**—But this is as to her apology for him.

**GURNEY, B.**—I will receive it at a hazard if you insist upon it.

**SIR JAMES SCARLETT.**—I want merely a particular expression, or only that she conversed with the gentleman.

You were present when Mrs. Cookson had a conversation with the same gentleman who was offended by Marsden?—Yes.

By **GURNEY, B.**—Were you present when he gave the offence?—No, my lord.

By **MR. ARMSTRONG.**—At that time he was in his room?—Yes.

Tell us what happened afterwards that you yourself saw or heard, not what passed between Mrs. Cookson and the gentleman, but did you hear





her speak to Marsden?—I did not hear it, but the chambermaid told me something.

Do not give us that. Did he continue in his room?—Yes.

How long did he continue in his room?—Two days and two nights; I was not there all the time, but so I heard.

Did you know of your own knowledge that he kept in his room all the day?—No; I did not.

Did you know that he kept his room any part of the day. Did you see him out of his room after that?—Not when I stopped.

By GURNEY, B.—How long did you stop?—Five or six hours.

What time of the day was it you went away?—Between four and five.

By Mr. ARMSTRONG.—Were you in the house five or six hours that day?—Yes.

Was Marsden out of the room all that time?—I did not see him.

By GURNEY, B.—What was the dinner hour?—At two o'clock.

Was he at dinner?—No; he was not.

By Mr. ARMSTRONG.—Did you wait at dinner?—Yes.

Was he at dinner?—No; he was not.

Where were you sent to?—I was sent away for Mr. Wright.

By GURNEY, B.—By whom?—By Mrs. Cookson.

By Mr. ARMSTRONG.—You were to go and fetch Mr. Wright?—Yes.

Did you go to Wennington?—Yes.

Where was Marsden when you came back?—In his room.

By GURNEY, B.—How long were you going?—I was all the night going; I was away two nights.

By Mr. ARMSTRONG.—What time of the day did you get back again?—Some time in the day time; I do not know exactly.

Was Marsden then in his room?—Yes, he was.

When Wright came back with you?—Yes.

Was any accommodation taking place then?—I was not present at any meeting after I came back.

Did you tell Mr. Wright, when you came to him, what it was about?—I had a letter for him from Mrs. Cookson.

Did you tell him anything yourself?—I cannot say I did. I got there at five in the morning. I do not recollect that I had any conversation with him about what brought me there; but I had a letter which I delivered immediately.

Mr. Marsden was in his room when you got back?—Yes.

How soon after you got back to Buxton did you see him?—Directly after.

Did you see him in his room?—I did.

Did he keep his room at all after you got back to Buxton?—Very little.

How long?—An hour or two after I came back with Mr. Wright.

How long did you remain at Buxton?—I cannot exactly say; a few weeks; not long.

Have you been in Mrs. Cookson's sitting room, when Marsden was there, when at Buxton?—Yes.

How has Mrs. Cookson treated Mr. Marsden at that time; what was her manner to him?—(Not audible.)

Did you see any writing when you were there?—Yes.

In what room?—In Mrs. Cookson's room.

Who was writing ?—Marsden was writing, with Mrs. Cookson standing beside him, and sometimes sitting down.

Did he improve at all during the twelve or fourteen years you were in his service ?—I saw no difference at all.

Did you ever see him transact any business ?—No, not with any body.

Did persons come to Wennington Hall about business ?—Yes.

Whom did they transact business with ?—With Mr. Wright.

With Marsden never ?—Never.

In your opinion, was he fit to conduct any business at all ?—I do not believe he was.

Cross-examined by the ATTORNEY-GENERAL.—You were examined at York ?—Yes.

Were you also examined by some gentleman here in Lancaster ?—No ; I was not.

At York, did you say anything about this Irish gentleman quarrelling with Marsden ?—No ; I did not.

I suppose you had forgotten it ?—No ; I had not.

Did you, at York, say anything about the writing going on at Buxton, and Mrs. Cookson being near him ?—No ; I did not.

I think you say that you went to Buxton when Mrs. Cookson, Mr. Wright, and Mr. Marsden, went ?—Yes.

Any body else ?—Rebecca Wood, the servant of Mrs. Cookson, went also.

How long had she been in the family ?—She was there when I went to Wennington Hall, but how long, I cannot say.

How long did you know of her being in the family ?—I knew her six or eight years, she married when I was there.

What year did she marry in ?—I cannot say.

How long after the Buxton journey ?—Very soon after the Buxton journey.

By GURNEY, B.—Mrs. Cookson died very soon after the Buxton journey ?—Yes.

By the ATTORNEY GENERAL.—She died in November following I believe ?—Very shortly after, but I do not know the month.

How long did Wright stay at that time at Buxton, the first time you went ?—I do not exactly know—eight or ten days, or a week ; I do not exactly know.

How long did they stay after that affair of the Irish gentleman ?—A fortnight or three weeks ; I cannot tell.

How many years is it ago ?—It is more than forty years ago.

Do you know how long they staid at Buxton ?—Perhaps a month or six weeks in the whole ; six weeks ; I cannot say.

Who was the Irish gentleman ?—I do not know who he was.

Did you ever see him ?—Many a time.

Was he staying there all the time ; was he staying at the time in the same house ?—Yes.

Did Mrs. Cookson dine at the public table ?—Yes.

Did Mr. Marsden dine at that public table ?—He did.

Did you wait upon them at table, or did the waiters wait ?—Both.

And did you wait at the public table on Mrs. Cookson and Mr. Marsden ?—I did.







How long did the Irish gentleman and Mr. Marsden dine together before this quarrel took place?—I cannot say; four or five times.

Rather more; was it not a week or a fortnight?—No; not so much as that.

Was it a week?—Yes.

By GURNEY B.—Were you present at the quarrel?—No; I was not.

Did you know anything of it except by way of report?—No; I did not, as to how they fell out.

By the ATTORNEY GENERAL.—You only heard of it?—I believe there was nobody in the room but those gentlemen and Mr. Marsden.

Those gentlemen; what gentlemen?—Two Irish gentlemen.

Were there any other gentlemen staying at the house during that time?—A great many.

When Marsden did dine there, did he dine with all of them?—Yes; he did with all; he did dine with them.

You knew the habit of the house was for the ladies to retire after dinner?—Yes.

And leave the gentlemen alone?—Yes.

And Marsden used to stay with the gentlemen?—Yes; a little, but not much.

Do you recollect the name of the gentleman?—I do not—I do not know I ever heard it.

Did he appear to be a gentleman of any consequence there?—He had no servants that I know of.

Any horses?—No.

How long did he stay there?—I do not know; I knew of his being there three weeks, I think.

How many other gentlemen were there at the same time?—I cannot say how many there were.

You were in the family a great many years?—More than twelve years.

Now I want to ask you a question or two about Southampton Row; who went to London upon that occasion?—To London, Sir?

Yes?—With us, Sir?

Yes; you did not go till a fortnight afterwards?—Yes; I went with Marsden; Mrs. Cookson went with the maid first.

Who was that maid?—Rebecca Wood.

And then you, and Marsden, and Wright, went about a fortnight after?—Yes; about a fortnight after.

I think you said the circumstance you alluded to, happened there the same night?—Yes.

Mr. Marsden sent you into the room?—He did.

No door locked?—No, none.

Was Doctor Bickersteth in London at that time?—Yes, he was, and his lady.

Then they went up at the same time that Marsden and Wright went?—Yes.

Doctor Bickersteth and his lady?—Yes.

Where did they go to?—I do not know; they went with us to our lodgings, and then they had a coach, and went away.

Did they visit you when in town?—Not often; they went to their house; it was somewhere near the Seven Dials, but I cannot say where it was.

Did they come to your house?—Yes; once or twice.

What stay did they make in town?—Thirteen weeks, as near as I can tell.

Was Wright there all the time?—No, he was not.

How long was he away?—I cannot say; he said he was going to Scotland; but whether he went there or not, I cannot tell.

How many weeks out of the thirteen was he absent?—I cannot exactly say; I cannot say; whether it was five or six, I do not know.

Do you remember in what year the family removed to Hornby from Wennington Hall?—I cannot tell the year; it is about thirty years.

How many years was it after Mrs. Cookson's death?—I cannot say; I went before the family.

By GURNEY, B.—How long after her death did you go?—I cannot say; within half a-year or more.

By the ATTORNEY-GENERAL.—Was not Henry Tatham a member of the family at Wennington, the greatest part of the time you were in his service?—Yes, he was.

From the time of the death of Henry Marsden?—I cannot say; I was not there; I went away two or three years after the death.

By GURNEY, B.—Did you find Henry Tatham there, when you went there?—Yes, he was there.

How long did he remain a member in the family?—Till they went to Hornby Castle—not quite so long.

By the ATTORNEY-GENERAL.—That was after Mrs. Cookson's death?—Yes.

Then, for the last six or seven years of Mrs. Cookson's life, was Henry Tatham a member of the family?—Yes, he was.

He was in the house?—Yes; he was not constantly there; he sometimes went to Westmoreland.

But that was his home?—Yes.

He was clerk of the peace?—He had some office, but I cannot say what it was.

Was he in the habit of going away and coming back?—Yes.

Was not Miss Tatham a member of the family all that time?—Yes.

And you left her there?—Yes.

Henry Tatham was the brother of the Admiral?—Yes.

And Miss Tatham, the cousin?—Yes.

Now, after you got to Hornby, did not Henry Tatham continue to live in the village?—Yes, he did.

Where did he live?—At a villa of his own; about one hundred yards from the Castle Gate.

Did he not come regularly or frequently to dine?—I do not know that he did; I was not at the house at that time; he very seldom dined in my time.

Now, I beg to ask you, whether Mrs. Cookson and George Wright saw you that evening you talk of?—To be sure they saw me, but I did not speak to them.

How many rooms had they in that house in London?—About four rooms up stairs.

It was at a common lodging-house?—No; it was like a gentleman's house.

For any gentleman to go to?—Yes.

Was there any man in the house?—There was an old man and woman at the back side of the house; they had apartments in the back part of the house.

Who did you tell this story to, as to this matter, in order to give it in





evidence here ?—I do not know that I ever did, only when I was solicited.

Never before ?—It is eight years since I first mentioned it.

Is it not rather less than that ?—I did not mention it till after Marsden's death.

Was not a person of the name of Bush, the first person you mentioned it to ?—Yes.

He was a grocer ?—Yes, he was.

He is now dead ?—Yes.

He was very active in getting evidence ?—I do not know ; it was him that came to me.

He took pen and ink and wrote it down ?—Yes.

Did he afterwards introduce you to Admiral Tatham ?—I cannot say that he did ; Admiral Tatham sent to me at Hornby once ; he was only going through then.

Where was he ?—At the Castle Inn.

Where were you then ?—Living at Hornby.

What were you doing then ; in whose service were you ?—Thomas Procter's servant.

The Rev. Mr. Procter's servant ?—No ; he kept the public-house.

The Castle Inn ?—Yes, he did.

You have seen a great many people examined there, have you not ?—No ; I cannot say I have.

How many ?—I have seen none at the Castle Inn.

Where have you seen them examined ?—I do not know.

Where were you examined ?—At the Castle Inn.

Did you see others examined there ?—No ; I cannot say I ever did.

Did Mr. Higgin ever examine you ?—Yes.

When was that ?—After that, a long time.

Did you tell this story to Admiral Tatham ?—No, I think not.

Do you mean to say you never spoke to Admiral Tatham about it ?—No, I do not say so ; I might have done so.

Did you not, at York, say that once or twice Admiral Tatham spoke to you about this very matter ?—I might say so ; I forget that.

If you said so, is it true ?—I believe it is.

As you believed so, has Admiral Tatham spoken to you about it ?—Yes.

Where ?—At Lancaster ; I have seen him once at Lancaster, and twice at York.

Where did you see him at Lancaster ?—Going up to the Castle-hill.

How long is it since ?—Six years.

How long was he living at Lancaster ?—I cannot say.

Were you at his house ?—Yes.

Who were there ?—I saw his lady going backwards and forwards.

Were you in the room with Admiral Tatham ?—Yes.

Did he write down what you had said ?—Yes ; he wrote something down.

Did he not write down this story about Southampton-street ?—I cannot exactly say whether he did or not.

Did you sign any paper ?—None there.

Any where ?—At Mr. Bush's.

Who asked you to sign it ?—Mr. Bush.

Did you see Bush before or after you saw the Admiral ?—Before.

Did anybody desire you to go to the Admiral ?—Bush did.

And you went?—Yes.

Were you entirely alone with the Admiral?—Yes, I was.

And then he wrote it down again?—He wrote something, but I cannot say what it was, whether it was that or not.

Pray did Bush put any questions to you, or did you tell him what you were to say without his asking questions?—No; he asked questions of me.

Did you not say, at York, that he did not put questions to you?—I do not know that I did.

Did you not say “Bush put no questions, but I know he was collecting evidence against Wright?”—Yes, I did.

Is it true?—I believe it is.

But you know that he was collecting evidence against Wright?—Yes; he came to me about Wright, but whether he was collecting any more or not I do not know.

You say the door was not locked?—No; it was not.

Was it even latched?—It might or it might not.

Did you not swear, at York, that the door was not latched?—Fastened you mean?

I mean put to, so as to be fastened by a catch?—It was not fast.

Was it latched?—I cannot say whether it was latched or not; I could get easy into the room without any difficulty.

Had you to turn the handle?—I cannot say now.

Did you not say, at York, that the door was not latched?—I cannot remember whether I said so or not, but the door was easy to open.

Was the door partly open and partly not?—I think not.

A-jar?—I think not; it was to.

Mr. ARMSTRONG.—Then it was not a-jar.

By GURNEY B.—Do you mean that the door was shut?—It was shut.

By the ATTORNEY-GENERAL.—Now, did you tell Mr. Bush this story of the Irish gentleman?—Yes, I did.

Did you tell it at York?—No; I did not.

Did you tell Bush anything about Mrs. Cookson standing over him with the letter?—I believe I did.

How long has Bush been dead?—About two years; I cannot exactly say.

Re-examined by Mr. STARKIE.—You told Bush the story of the Irish gentleman; were you asked about it at York?—I think not.

• What passed between you and Bush, when he came to you?—He asked me how long I had lived at Wennington Hall, and what I knew about Mr. Marsden.

And you told him this story of the Irish gentleman?—Yes, I did.

Then he told you to see the Admiral?—Yes, Sir.

Did you afterwards see Mr. Higgin?—Yes.

GURNEY, B.—That is only going over it again.

Mr. Marsden, you say, dined at the public table, and used to stay after the ladies retired, but not long?—No, not much; he used to go to his room.

What has become of Rebecca Dudding?—She is dead.

Mr. FRASER, the short-hand writer, was again called upon, and verified the notes taken of the evidence of George Mashiter upon the trial of the issue at York.

By GURNEY, B.—Have you examined that copy, Mr. Fraser, with your







original notes ?—Yes, my lord ; I examined it very carefully since I came to Lancaster, and have signed each sheet of the transcript of it, contained in that volume.

The Clerk of the Court then read the following examination.

*George Mashiter*, sworn. Examined by the ATTORNEY GENERAL.—

How old are you ?—Seventy-five, the 26th of October next.

Did you ever live as a servant to Henry Marsden ?—Yes.

Was you servant to Henry Marsden when his brother John was at Lancaster ?—Yes ; I fetched him from Lancaster once.

Can you tell how many years ago that is ; perhaps you cannot tell exactly ?—I cannot tell to a year or two, but it was some time before Henry Marsden came of age.

His mother lived at Lancaster, did she not ?—Yes.

When you fetched him from Lancaster, did he remain at Wennington ?

He remained some little time ; he went to Mr. Croft to be under him ; Mr. Croft was to be his tutor.

Where did they go to ?—To Weyhill, in the South.

Did you accompany them any part of the way ?—To Cambridge.

And did your master, Henry Marsden, go with them that length ?—Yes.

And then you returned, and they went forward ?—Yes.

That was before your master was of age ?—Yes, I believe so, but I am not certain ; it was just about that time ; it was when I was there.

How long did he remain with Mr. Croft ?—Not long ; they were at Wennington Hall, when Henry Marsden came of age.

Did he, John Marsden, remain there afterwards ?—As long as I stopped.

How long did you stop as a servant in the family ?—I stopped short of a year.

Then I believe you became a tenant, did you not ?—Yes.

Did you live close by the hall ?—Short of two miles.

Were you accustomed to go to the hall after you ceased to live as a servant ?—Yes, frequently ; they built a barn, and I used to fetch timber, &c.

What sort of a man was this John Marsden, when you fetched him from Lancaster ?—I never saw him before ; I thought him a very comical man ; after we were five miles from Lancaster, he said we must stop to have something to drink.

Did he desire that ?—Yes.

You went on horseback ?—Yes ; and he desired we should go in at Caton, and have something to drink ; he said “ we must have a pint of ale ; ” and after we had drunk it, he said, “ who must pay for it ; ” I said, “ you, to be sure, ” then he said, “ what must I say to my brother, if I pay the twopence halfpenny ? ”

Upon that did you pay the 2½d. ?—Yes.

You took care not to stop again ?—No.

When you got to Wennington Hall, how long did you stay before you went to Cambridge ?—It was some time after Christmas he went to Cambridge.

But how long had John Marsden been at Wennington Hall before you went to Cambridge ?—Not long ; a month or six weeks.

You had then an opportunity of seeing what sort of a young man he was ?—Yes, I did.

What sort of understanding had he?—I never saw any body talk to him as a man that was capable of any thing, but as a child; people only talked to him by way of compliment to his brother.

They would take notice of him?—Yes.

Do you know whether he used to go about the village and call at people's houses?—Yes, frequently.

You have seen him do that?—Yes.

Did you ever go with him?—Sometimes; but I heard of him every day.

You must not tell us what other people said, but what you know yourself. Was he afraid of animals?—I never saw that.

Have you ever been along with him to any of the neighbours' houses?—Yes, I have; and he used to behave in a very comical manner among the women.

How did he behave?—In a very rude manner.

How did the women treat him?—They used to play upon him as a person without any common understanding.

When you went to Cambridge, do you remember his buying something for himself there?—I do; and I was sent after it.

What was it he bought for himself?—He bought either a flute or a fife, I cannot say which.

What happened then?—He brought it home, and his brother examined him as to what he had given for it, what money he had paid, and they sent me to the shop to inquire.

Do you mean by "they" his brother and Mr. Croft?—Yes.

They sent you to the shop to inquire?—Yes.

Did you bring back an account of what you had heard at the shop, to Henry Marsden?—Yes; and I was laughed at at the shop.

What account did you bring back?—I believe there was nothing amiss.

When he came back with Mr. Croft, how long had he staid before he came back to Wennington. How long was he absent with Mr. Croft?—It could not be a great while, as Mr. Croft came to live at Gargrave soon after.

Had John Marsden come back to his brother's house before that to live with him?—Yes.

Do you remember Mr. Wright coming into the family?—That was after I left; he took my place when I left it.

What was your place?—I was footman or butler.

And Wright succeeded you?—Yes.

You afterwards, I believe, bought a farm, did you not?—Yes.

Part of the Wennington estate?—Yes.

After Henry Marsden's death?—Yes.

With whom did you make the bargain?—With Mr. Wright.

Had you talked to Mrs. Cookson before it?—No; she sent me word by Mr. Wright that I might have it £50. less than any body else.

Wright brought you that message?—Yes.

Did you make the bargain with Wright?—Yes; I never talked to any body else except Mr. Picard, who was Mr. Marsden's attorney; I do not remember whether I had or not; it was done at Wennington Hall.

What was the money you agreed to give for it?—£850.

Where were the papers signed?—At Wennington Hall.

Did you go there—did you ever see John Marsden upon the subject?—Not at all.





Was it read over ?—Yes.

Who were present when he read it over ?—Wright and myself, and the clerk.

Where was John Marsden then ?—He was not present ; I do not know where he was.

What was done then ?—It was signed.

What happened then ?—Wright said “ Now we have nothing to do but call our Skipper to sign it.

Did he call the Skipper ?—Yes.

He sent for him ?—Yes.

Did John Marsden come in ?—Yes.

What happened then ?—They pointed to him where he was to sign his name.

And he put his name to it ?—Yes.

And what happened then ?—He went away and said nothing.

Now, after you became a farmer, you say you went sometimes to Wennington Hall ?—Yes.

Mr. Wright, you understood, became steward and manager after Henry Marsden's death ?—Yes.

Had you any opportunity of observing how he managed John Marsden ?—Not much.

Have you ever seen them together ?—Yes ; I have very often got my dinner there in the kitchen, and he would sometimes come in ; and if he had been talking to any of us, and Wright had followed, he would take him away like a child doing mischief.

They afterwards went to Hornby Castle ?—Yes.

Did you ever see him there ?—No.

You never went to Hornby Castle ?—No.

Did John Marsden ever hunt ?—Yes.

Did you ever see him ?—Yes ; but I never was much with him.

How did he appear to hunt ?—If he got into a field he could scarcely ever get out without somebody to lead him out, or pull a gap down.

Have you seen that done for him ?—I have seen him go about a field when he could not get out. I cannot say I ever pulled a gap down.

Did other persons get out of that field ?—Yes ; but he could not get out like a hunter.

Have you seen him walking by himself sometimes ?—Yes, often.

After you left them ?—No, not after I left them.

In what way did he walk ?—Talking to himself ; generally he talked to himself when he was walking.

Did he walk fast or slow ?—Sometimes one way, and sometimes the other ; in a comical way, beating the ground with a stick, and picking up things as he went along.

Did you ever see his mother at Wennington Hall ?—Yes, several times.

Did she use to stay sometime when she came on a visit ?—Yes, two or three days, or a week at a time.

How did she treat him ?—She treated him in a comical way ; she would say, “ Now, Jack, do not behave in that manner,” and shake her head at him.

Was his brother Henry a sharp, clever man ?—Yes, I think he was, according to my opinion.

You did not see Wright and him together, after he went to Hornby Castle?—No, Sir.

Cross-examined by Mr. POLLOCK.—Did he amuse himself ever with a flute or a fife?—Yes, I cannot say whether it was a flute or a fife.

Was it before or after his brother's death?—It was before.

After that, did he play on the fiddle at all?—I do not know about his playing.

Perhaps you know nothing of any of his habits after his brother's death?—Not so much; I was not there after his brother's death.

And then all you say about his talking, and so on, was before his brother's death?—Yes.

You say Mr. Picard was his attorney at that time?—Yes.

Who was he?—He lived at Cowen Bridge, as an attorney.

Is that near Kirkby Lonsdale?—Yes; two miles.

Was he your attorney or their attorney?—He did for me and for them too.

Who was your attorney in that business?—Mr. Picard.

Who was the other attorney?—I do not know of any other, except he was.

Did you ever see Mr. Barrow in the business?—No; not that I know of.

You knew Mr. James Barrow?—Not at all.

Did you not know James Barrow of Lancaster?—No; I did not.

Is not that the agreement (it is no evidence on the other side); is that your writing; put on your spectacles and look?—It does look like it.

Have you any doubt that it is?—No; I have not.

Are you quite sure you employed Mr. Picard?—Yes; I am sure I had money of him.

Was he a respectable man?—Yes; as respectable a man as any attorney in our neighbourhood.

Was he a man of honour and integrity?—I never heard any thing to the contrary.

Had he a great deal of business in the country?—I do not know, indeed.

Was he respected in the country?—I never heard any thing to the contrary.

PARK, J.—Who is the attesting witness?

Mr. POLLOCK.—James Barrow, my lord.

Was Mr. Barrow present when that was executed?—No; I do not recollect. It was a Mr. Bradley, but not Barrow, that I remember.

Bradley was Picard's clerk?—Yes.

Did you pay £850 for that agreement?—Yes; but not all at once.

How did you pay it?—£500 was paid then.

When was the rest paid?—Several years after.

Mr. POLLOCK.—This is in evidence already; it was proved the first day.

I think you say that John Marsden was utterly unfit for any kind of business?—Yes; I used to think him so; I believe so.

PARK, J.—I will thank you for that agreement.

(The agreement was handed to his lordship accordingly.)

ATTORNEY-GENERAL.—I should like to see that agreement, which is alluded to at the end of that evidence.

Sir J. SCARLETT.—It was put in.







*John Hartley, Esq.* sworn. Examined by Sir JAMES SCARLETT.—I believe you are an attorney at Settle?—I am.

Have you lived there for a great many years?—It is forty-five or forty-six years.

Were you concerned with any of the parties who made purchases of part of the Wennington estate?—Yes; for a gentleman in Yorkshire.

Did he become a purchaser of one of the tenements or portions of that estate?—Yes.

Were you the solicitor of any gentleman who purchased a portion of the Wennington Hall estate?—Yes.

Who was the gentleman?—Mr. Caley.

Do you recollect at what period it was that you went to Wennington Hall to have the deeds signed?—Yes; it was on the 25th of April, 1788.

Did you go there by any invitation?—We had a regular invitation to go: there were five or six solicitors who went to complete the purchases at one and the same time.

They were concerned for different parties?—Yes.

Among those solicitors was there John Bolton of Colne?—Yes.

He has been dead many years?—Yes.

Was he an eminent solicitor in the county of Lancaster?—Yes, very, and much esteemed.

When you went, were you invited to dinner?—We were invited to go to dinner on the 25th of April.

Had you ever before that time seen Mr. Marsden?—Never.

As far as you could observe of the gentlemen who accompanied you, or met you, were they almost strangers to him?—I believe nearly so.

Were you introduced to him before dinner?—I think not.

Did you find Mrs. Cookson there?—Yes; she was at dinner.

Was James Barrow there?—Yes.

He was a solicitor living at Lancaster?—Yes; and he was Mr. Marsden's solicitor.

Were there any other gentlemen?—The witness mentioned a Mr. Starkie of Gisburne, the then Mr. Lister, the first Lord Ribblesdale, Mr. Dawson of Bradford, who was solicitor for some gentleman who had purchased other estates in that neighbourhood, and Mr. Bolton—and others, indistinctly.

Was Mr. Wright there?—Yes, he was.

You all sat down to dinner?—Yes.

Mrs. Cookson sat at the head of the table, did she?—Yes.

Where did Mr. Marsden sit?—On the right hand of Mrs. Cookson, and Wright at the bottom of the table.

How did Marsden conduct himself during dinner?—Very gentlemanly.

You observed nothing particular?—Not in the least then.

When the dinner was removed, you had wine, no doubt?—Yes.

Did Mrs. Cookson quit the room?—Yes; Mrs. Cookson first, and then Barrow and Wright said they had some business to attend to, and they left the room together.

Where was Marsden then?—He had taken Mrs. Cookson's chair.

When they left the room do you remember any thing particular in his behaviour?—He began pushing the bottle round, and gave us some toasts.

Did he take his glass himself?—Yes; and requested the gentlemen

round the table to fill bumpers, and he then gave a toast ; we stood up with bumpers, and he gave " Mr. Wright and Mrs. Cookson."

Did he add any thing to it ?—No not then—we drank our glasses and sat down. In a very little time he stood up again, and said he had another toast to give, and he gave then " Mr. Wright and Mrs. Cookson—and may they live a thousand years."

Was that a bumper toast too ?—Yes.

Did he give any other toasts ?—No ; I do not think that he gave any other in particular ; but it was then the custom for gentlemen to give toasts.

Do you remember any thing particular in his behaviour ?—Before Mrs. Cookson left the room, he talked a good deal of the daughter of Mr. Butler, the father of the rector of Bentham, and said he should like to marry her ; this was before the whole company, and before Mrs. Cookson left the room : and Mrs. Cookson then said " what business have you to marry ;—when you cannot take care of yourself, how could you take care of a wife ?"

Now, from the observations one of the other gentlemen made on what had passed on Mr. Marsden's appearance that day, did you and the other gentlemen make any communication to Barrow and Wright about the business you came upon ?—Sometime after dinner we walked out together, and we had some conversation, I and the others.

After that, did you communicate to Mrs. Cookson, Barrow, or Wright, any impression you had formed as to Marsden ?—I told Barrow, in the presence of Wright (I do not know if Mrs. Cookson was present,) I told him that from what had passed we had great difficulty in taking the title. Mr. Barrow said, in Wright's presence, that he thought there was no difficulty in concluding the purchases, for if they were to be questionable, we should have a lien upon a purchase that was going to be made of the Hornby Castle estate ; (or that he had purchased it) that the money was to be paid in two or three days in London, and that Mr. Wright and Mrs. Cookson were going up to London for that purpose. We breakfasted together next morning, and after breakfast we were called into the business-room. The deeds were previously prepared, and perused by Barrow, the solicitor.

Was this when you were called into the business-room, that you made this representation ?—I believe it was.—It was in the morning that it was made.

After that communication was made by Barrow, had you any consultation with each other, about it ?—Yes ; we had.

What did you finally resolve to do ?—To pay our money and to get the deeds executed.

Was there any thing agreed about who should be the witnesses to the deeds ?—Yes, it was agreed that they should be witnessed by Wright, Cookson, and Barrow, and that each of us should also be a witness, the one for the other ; and they were to witness mine in the same way.

Was that done accordingly ?—Yes ; it was.

From the observation you made of Marsden's conduct on that day, did you think him a person competent to manage his own affairs ?—I did not, indeed.

You have been in Court, and heard all these letters read ?—Yes ; part of them. I was at York, and was examined, and I heard part of them, and some parts I could not hear distinctly.

There were letters of business, and some of compliments ?—Yes.

In your judgment, from what you saw of Mr. Marsden at that time, should





you think him capable of writing all of those letters?—I should not, certainly.

Did you ever see him after that?—I have seen him after that when he was on a visit to the late Mr. Lister. I hardly recollect being in company with him except in a conversation afterwards. I believe I was once dining with him at Mr. Swale's, along with old Mr. Lister. I used to go past Lister's, at Giggleswick, every day.

Were you ever at dinner with him?—Yes; once, at Mr. Swale's.

Did any thing particular occur, that you now recollect?—I think it was the day we had an assembly during winter; it was one of the days that we had assembled in the evening, and he expressed to Anthony Lister a wish to go to the assembly, and Mr. Lister said, "No, you must not go, Mr. Marsden; you had better go home to your fiddle." And he did not go; most of the company went, but neither he nor Mr. Lister went. I think Lister went home with him.

Where is Gargrave; is it between Settle and Skipton? It is eleven miles from Settle, and five from Skipton.

Do you know whether Mr. Lister Marsden is still the incumbent of Gargrave?—Yes; he resides in the vicarage, and does the duty.

Cross-examined by the ATTORNEY-GENERAL.—Mr. Hartley, I think you never had any transaction in business with him but this one?—Never.

And then, I believe, nothing else struck you as absurd but his giving that toast twice over?—Only his general conduct. I could see he was completely guided; it was evident to every one around the table.

Mr. Hartley, you are an attorney of some standing, and you know that is not evidence. Did you not say at York, that nothing else struck you as absurd but his giving those toasts twice over?—I might say so, as I answered the question put to me, but no more. I am not aware that that was the expression. If I were asked at all, I should say that he was so treated by Mrs. Cookson as to show that.

That is not the question: did you not say at York, that nothing struck you as absurd, but the giving that same toast twice over?—I think I must have added something to it. It is impossible for me to recollect the words I stated.

What did you add to it?—No; I do not know whether I added any thing to it or not.

Did you not say "he was guilty of no other absurdity that I know of"?—I think not.

Will you swear you did not use such expression?—No, I will not; because I might say so.

Then probably it is true, as you might have said so?—I said nothing but what is true, Mr. Pollock. I believe it was.

If you might have said it, was it not probably true? (No answer.)

GURNEY, B.—That is the proper question.

Was it not true—did you see any other absurdity than his giving the toast twice over?—I must have said other things besides that. I am sure I said nothing but answer the questions put to me.

In cross-examination, did I not put it to you whether he was guilty of any other absurdity, and you said "No"?—I dare say, I might say so, now.

Did you not add, Sir, "this is forty-two years ago"?—Yes; I dare say I did, as it was forty-two years ago, or better.

You say that Mrs. Cookson retired, and then Barrow and Wright went away?—Yes, they did.

How long were they absent?—I do not think they came back till we were all about to separate. We did not sit long; we walked out together. It was in the latter end of April—the 25th of April.

Were you not with the other attorneys with Marsden alone for an hour and a half or two hours?—No, there were other persons in the room besides; we might sit an hour and a half, our own party with Mr. Marsden, and along with the family party.

How many persons were there besides the five attorneys who came about these deeds?—I think there were two or three; but I do not recollect who they were; we knew nothing of them; I suppose they were invited by Wright or Marsden; I have no recollection about who they were.

I ask you whether Barrow and Wright were not absent an hour and a half or two hours?—I do not remember their coming into the room again.

That is of no importance, as you may all of you have gone out in five minutes after?—They did not come back till we were just separating.

By GURNEY, B.—You sat for an hour and a half, and then you broke up and walked out, and they did not return till then you mean?—Yes, my lord.

By the ATTORNEY-GENERAL.—Did you not state at York that it was long after—an hour and a half or two hours?—I should think so; I do not say it was not; I think it would be an hour or an hour and a half.

Now, the bottle went on pretty briskly?—Mr. Marsden pushed the bottle about briskly, but the company did not drink more than the usual quantity of wine.

Did he drink bumpers when he called upon you to do it?—Yes, he did. It was usual to drink toasts.

Were there other toasts?—Yes, I have no doubt of it, but those toasts were so singular that they struck me more than any thing else. I should not be likely to have recollected them if they were the common toasts.

Was Swale a partner of yours?—Mr. Swale, jun. was. I took him upon condition that he was to become so.

Is that your hand-writing? (handing a letter.)—Yes, Sir.

You may read the whole of it. I call your attention to the third page of it?—(Witness reading the whole of it to himself.) That is a letter I addressed to Mr. Baldwin, Mr. Barrow's partner.

I ask you whether the title you took from Mr. Marsden was a perfect title?—We considered it was at the time, certainly. We had abstracts of the title sent to us. We had never seen Mr. Marsden, and our doubts arose as to his capacity. I never had seen him before.

By GURNEY, B.—You have been shown the letter you wrote, and you are asked whether you considered the title you were taking was a perfect title?—We considered it so at the time.

By the ATTORNEY-GENERAL.—Was any thing more afterwards wished to be done?—The letter states it. We descanted about the effect of the recovery suffered by Marsden, whether it was sufficient to bar all remainders over.

Did not you want John Marsden to suffer another recovery?—Yes, we did. Mr. Caley became a bankrupt, and there was some demur about the title.

You were unfortunate enough to have been defendant in some action







arising out of this very matter?—I was, as we paid the purchase money, part of it in bills drawn payable on demand in London, and part of it in £10. notes. There was a great quantity of them in circulation by a large house in Lancashire, Laurie Hargrave & Co. and there was a loss upon their failure.

Mr. Hartley, what had you to do with them?—I paid the money myself, my client was not there. An action was brought in the name of Marsden against me for the recovery of two ten pound notes, and Mr. Wright was produced as an evidence of the fact that the two ten pound notes were the two ten pound notes paid by me.

But did it ever go to trial?—Yes, it was tried at Lancaster, and Mr. Baron Wood was my counsel; he thought the action could be sustained against me, and I was satisfied; and then it went to the court of king's bench, they gave an opinion against me, and I had to pay the debt and costs; and the only satisfaction I had was taking Wright by the nose, and telling him he was a forsworn villain; that was in coming down from the castle.

You took Mr. Wright by the nose and told him he was a forsworn villain?—A forsworn villain.

I am obliged to you—that was not in my instructions?—I wish to keep nothing back.

Were you ever in the cause of Wood v. Hammerton; was there not a commission to know whether you were fit to be believed upon your oath or not?—I was examined as a witness.

Was there not an inquiry directed whether you were fit to be believed upon oath?—No; I believe nothing of the sort; I never heard any thing of the sort before.

Do you remember being present at a commission, in which Mr. Jackson, Mr. Mason, and Mr. Shuttleworth were of the commission?—Mr. Shuttleworth was the commissioner named by me.

If you tell me that no such enquiry was made upon that occasion, I say nothing more of it whatever?—No, there was not; it was referred to Mr. Lamb, as the arbitrator.

Were you not examined as a witness?—Yes.

And was there not afterwards an inquiry whether you were to be believed upon oath?—No, nothing of the sort.

Nothing of the kind?—No, nothing of the kind; not at any time.

Pray did you take any indemnity that the money should be applied to the purchase of the Hornby estate?—Nothing, but Barrow's assurance that it should be applied to that purchase in a day or two.

Was Barrow a gentleman of honour?—Yes, he was.

And in good business?—Yes.

No one bore a higher character?—I believe so.

Did you know him afterwards as a barrister?—I never knew him much as a barrister; I knew Thomas Barrow, his brother, as a barrister.

Did you know a clerk of the name of Gibbins?—Yes.

Is that his writing?—He is our engrossing clerk.

By GURNEY B.—He is now?—Yes.

By the ATTORNEY GENERAL.—Is that his writing (handing a paper)?—Yes it is; he is the postmaster, and he does our stationary business.

Was any one speaking to you in the box just now?—Yes.

Who was it?—That lady.

Who was it?—(Pointing out the lady.)

Do you know who that lady is?—No; she is an entire stranger to me.

GURNEY, B.—That lady must be removed.

The Rev, Mr. BUTLER.—I was rebuking her for it; she is my wife, Mrs. Butler.

Mrs. BUTLER.—It had nothing to do with the trial.

GURNEY, B.—No matter, you must remove to another part of the box.

By the ATTORNEY GENERAL.—Now, Mr. Hartley, the other four gentlemen who were acting with you upon that occasion were all persons of respectability, were they not?—Yes.

Were you not appointed to come together the same day?—Yes, we were invited to take dinner.

Who made that appointment?—I do not know.

Was it your own seeking that you should come together?—No, it was by the solicitation of Mr. Barrow, or Wright; the purchase money was directed to be paid at Wennington Hall, on the 26th, and we were to be there on the 25th, in the evening, to dinner.

GURNEY, B.—It was the object to have it all done at once.

ATTORNEY-GENERAL.—Thomas Starkie was there, and Mr. Caley, Lord Ribblesdale's steward also, and there are four or five witnesses to the deeds.

How soon after did Mr. Caley become a bankrupt?—I cannot tell; but within two or three years I think it was. I cannot tell the time.

Sir J. SCARLETT.—There are five witnesses to this deed, my lord.

Re-examined by Sir J. SCARLETT.—Is that one of the deeds?—Yes. This is witnessed by Caley, steward to Mr. Lister, along with Mrs. Cookson, Barrow, and Wright. I find they were witnesses to all the deeds that were signed that day.

You have mentioned a circumstance that was new, which I never heard of before—that you had pulled Wright by the nose on telling him he was forsworn?—Yes; I did.

Was any person present at the time?—Oh, yes, no doubt about it; it was when the court broke up.

Did Wright ever bring an action against you for that?—No; he did not.

*Mrs. Ann Seward* was then called, and about to be examined.

Sir J. SCARLETT.—Before this witness is examined, I wish to ask another question of the former witness.

*Mr. Hartley* re-called. Sir J. SCARLETT.—My lord, I wish to ask whether any of the gentlemen, who were at Wennington Hall that day, are now living.

By GURNEY, B.—Are any of the gentlemen who were with you that day at Wennington Hall now living?—No, my lord, they are not.

Mrs. Ann Seward sworn.—Examined by Mr. CRESSWELL.—Where do you live?—At Burton-in-Lonsdale.

How old are you?—I am sixty-six.

Did you ever live at Bentham?—Between Bentham and Wennington.

How far from Wennington?—Upwards of a mile.

Do you remember Henry Marsden?—Yes.

How old were you when he died?—Either nine or ten.

Was George Wright living there then?—Yes, when Henry Marsden died.





What place had he? — He was called Boots; he cleaned boots and shoes and did any thing they used to employ him in.

A servant man? — Yes.

Do you remember John Marsden at that time? — Yes.

Did you often see him about? — Yes.

Did you ever talk to him, or hear him talk? — Yes.

What sort of man was he? — A poor weak and timid thing; very weak and timid.

Do you remember Mrs. Cookson? — Yes.

After Henry Marsden's death did Mrs. Cookson and George Wright continue to live at Wennington Hall? — Yes.

Used they to walk together? — Yes.

How used they to walk together? — They seemed very familiar.

Did Mr. Wright use to fish in the Wenning river? — Yes.

Who used to go with him when he went a-fishing? — Mrs. Cookson.

Did John Marsden ever go with them? — No.

Did you know Mr. Butler's house at Ridding? — Yes.

Do you remember being there at any time after Henry Marsden's death, when John Marsden, Mrs. Cookson, and Mr. Wright came? — Yes.

What did they come for; on a party? — On a visit.

Were you at the house then? — Yes; I was going with the newspaper from the Rev. Thomas Butler's, the rector of Bentham, to Butler's, of Ridding.

And you were there when Mrs. Cookson, George Wright, and John Marsden came? — Yes.

On a visit? — Yes.

Did they all stay there? — No.

Which of them went away? — Mr. Wright.

How came he to go away? — Mr. Butler said he would not suffer a footman to sit at the table, and in his hurry he left his cane and gloves.

Did you take them afterwards to him? — Yes.

When? — The day following. My father was a labourer at Wennington Hall; the next day I was taking his dinner to him; I took the cane and gloves away.

How did Mrs. Cookson behave to John Marsden? — With a great deal of harshness; she sometimes took little notice of him, and sometimes she treated him rather harshly.

How did Wright behave? — He seemed to be master of Mr. Marsden, he seemed to command him.

How did Marsden appear to behave to George Wright? — He seemed frightened.

Cross-examined by the ATTORNEY-GENERAL. — Your father was there? — Yes.

You had forgot to tell us that? — Perhaps I have not been asked.

Then Mr. Henry Marsden said, "Who is it you call Mr. Wright? He must be called George Wright; he is my servant"? — Yes.

You told that story at York? — Yes; to the best of my recollection.

How long was that before Henry Marsden died? — (Not audible.)

When did you see John Marsden last? — A good time ago.

How long ago? — Between seventeen and eighteen years.

Where did you see him last? — The last time I saw him he was walking

in Hornby; I believe that was the last time I saw him; it may have been above eighteen years.

How old are you?—Sixty-six years.

It is nearly fifty years ago?—Yes.

Re-examined by Mr. CRESSWELL.—You have been asked about what Henry Marsden said when he continued his servant; did he say whether he should continue long?—He said that would not be long.

You were then about seventeen or eighteen years of age when you saw him?—Yes.

*Betty Sedgwick* sworn.—Examined by Mr. STARKIE.—What age are you now?—Seventy-five, within a month or two.

You live at Tunstall I believe?—Yes.

Did you formerly live as servant at Wennington Hall?—Yes.

When did you first go?—I cannot be positive to the year.

By GURNEY, B.—How old were you then?—I do not recollect.

By Mr. STARKIE.—Were the family in mourning when you went?—It was within two months that he had died.

You were hired by the housekeeper I believe?—Yes.

Were the family at home?—No.

How soon after you went did the family return?—A day and a half or so.

Who came then?—Mr. Marsden, Mr. Wright, and Mrs. Cookson.

Do you recollect, after they came, what bed-room Mr. Wright had when they first returned from London?—His first room was over the kitchen.

Did he afterwards change that room for another?—Yes; he went to another that was next to Mrs. Cookson's.

Was there any window to that room between his room and hers?—There was a pane of glass between the closets; it was not one that would open; it was a fixture.

Do you know whether Marsden was afraid of turkey cocks?—Yes.

How do you know that?—When he walked out, he used to call to me from the top of the stairs to drive it away.

What would he say to you, do you recollect?—To go and set the cock away.

Was he ever coming into the kitchen?—Yes; and when Marsden came in there was a hawk that would come and bite him in the heel, and then Marsden would jump upon a chair, and order me to take it away, and I did take it away.

Do you know of Mrs. Cookson and Wright walking out together?—Yes.

Was that frequently?—Yes, every day when it was fair, and when they could go out.

Did Marsden go with them?—No, he very seldom went with them when I was there; very seldom.

How did they behave to him, how did they treat him?—I do not know, I did not see much of them; I heard Mrs. Cookson say he must abide in the house, and mind the servants.

Has Wright been there when she said that?—He was at the door, and she was in the kitchen.

By GURNEY, B.—He was within hearing?—Yes.

By Mr. STARKIE.—Upon that did Marsden go with them, or stay at home?—No, he stayed at home, and got his fiddle and began fiddling.







Where did he use to fiddle?—Sometimes in the kitchen, and sometimes in the hall.

Did he ever dance to his fiddling?—He used often to get from one chair to another.

Did he jump from one to the other?—He jumped.

Was that at the time he had his fiddle?—Yes.

Do you recollect talking to Marsden, when Wright said anything to you about talking to Marsden?—Yes, the miller and me were talking to Marsden one morning, and Mr. Wright was looking out of the window.

What did he say?—He said nothing then, but he came down stairs, and he said “if I said anything to Mr. Marsden, he would turn me away.”

What were the words he used at the time; what did he say?—Wright said, “that if I said anything to Mr. Marsden, he would turn me away;” those were the words he spoke to me.

Do you recollect at the time of the hay harvest, Marsden being in a field where they were making hay?—Yes, I was in the field next to the garden.

What happened?—He came in and said, “Betty, are you here?” Mr. Marsden said that; and then he said, “is this my field?” I said, “Yes, Sir.” There were three or four rigs of corn; he said, “what have they done it in this form for?” I said, “it was a piece of good land, and there would be a good crop of corn.” He said, “who are those men?” “They are your men, Sir;” he said, “Is it all mine?” I said, “Yes, Sir, it is;” he said, “he should know nothing, but for me.” There was corn in the middle, and grass on the other side, that the men were mowing at that time.

Now, in your judgment, what was his understanding?—Very little; he was very weak; I think he was very like a child.

Was he, in your judgment, capable of managing his own affairs?—No, not in my judgment.

Cross-examined by the ATTORNEY-GENERAL.—Is it about fifty years since you saw him last?—I think it is more.

How much more, do you think?—It may have been when I was twenty-six; I am now seventy-five; I do not know rightly how old I was; I cannot say; upon my word I have forgotten.

*Mrs. Ann King* sworn. Examined by Mr. ARMSTRONG.—Mrs. King, did you ever live at the house at Wennington Hall?—Yes.

How many years were you there?—Between two and three years.

Was Henry Marsden dead?—Yes.

How many years?—About six when I went; it might be six years, but I am not sure.

What age are you now?—Seventy-eight this last winter.

How old were you then?—Between twenty-five and twenty-six, when I went there, as far as I can remember.

Who hired you?—Mrs. Cookson.

What kind of a person was Mr. Marsden at that time, as to understanding?—I did not know him at the first of my going.

When you had been there a-while what was your opinion of him?—I thought he was a very weak person.

Do you remember his ringing his bell one morning, and your being desired to go up into his room?—Yes, very well.

Did you go up into his room?—Yes.

What kind of an apron had you on when you went into his room?—A white apron.

What happened then?—I knocked at the door, and he said “is that Ann;” I said “yes,” and I went in to make the bed; he said, “what kind of an apron have you put on; go down and put a check one on:” I went down and did so, and came up again; when I came up again, he said, “I have a hole in my stockings, that wants mending;” and I asked if I should do it, and he said, “come here, come here and sit down in this chair;” I sat down, and then he took hold of my check apron and put it on the bed, and looked at it; he looked at it, and said, “oh! dear check;” when I had done mending his stocking, I gave it him, and went away at that time.

Did he ever send for you at any other time?—Yes; many other times.

What did he want?—Sometimes his stockings and sometimes his waistcoat pocket mending; I always went in a check apron after that, or I must have been sent down again.

During the time you mended his stockings or his waistcoat pocket, what was he doing?—He was looking at the check apron.

Did you sleep with Mrs. Cookson?—Yes; mostly when she was at home.

Did Mr. Marsden go early to bed?—Yes; mostly about nine o'clock, or soon after.

Did Mrs. Cookson and Mr. Wright sit up late?—Yes.

What time did they go to bed?—Ten o'clock sometimes, and sometimes near eleven.

Did Mrs. Cookson go to bed before you?—Yes.

How soon after her did you use to go to bed?—About a quarter of an hour.

Did she ring for you?—She said she would ring for me when she wanted me.

How long was it before she rung?—About a quarter of an hour, or about that.

Who had the management of the house at Wennington Hall?—Mrs. Cookson.

Did Mr. Marsden take any part in it?—No; not that I know of.

Do you know whether Mr. Marsden was a timid man?—I never saw him smile, nor take any notice.

Of what?—Of nothing, but only of the check apron.

What do you mean by that?—He never took any notice of any thing that I know of in particular, except a check apron.

Did you ever see the gander running after him?—I cannot say that I ever did; I am not sure; but I heard of it.

The ATTORNEY-GENERAL.—I have nothing to ask you—you may go.

*Mary Taylor* sworn.—Examined by Sir JAMES SCARLETT.—How old are you?—Above sixty, but how much I cannot tell—it may be a year or two.

Did you ever live in the service of the family at Wennington Hall?—Yes.

In what capacity was it you were hired there?—I assisted the cook.

How long did you live there?—About a year and a half.

Did you wash also?—Yes; I washed once a month.





Do you remember a person of the name of Rebecca Dudding there?—Yes.  
What was she?—She was the chambermaid.

What sort of aprons did she and you wear?—A small plaid check.

Did Mr. Marsden ever come when you were washing?—He used to take them off the clothes-maid (meaning a stand), or sometimes out of a box.

Out of your box?—Yes; out of our box.

What did he do with them?—I do not know what he did with them; he sometimes kept them two or three hours, and sometimes two or three days.

Did he return them back afterwards?—Yes; he brought them back as clean as he took them.

Did you ever see him in possession of one?—Yes; I have seen him bring them under his coat, and put them back.

Did you ever see one of them in his bed-room?—No; I never did.

Pray, when Mrs. Cookson or Mr. Wright came into the kitchen, and the servants were there, did the servants keep their seats or rise up?—When Mrs. Cookson came into the kitchen, we all stood up, except we were at meat.

Did you do the same to Mr. Wright?—No.

Or Mr. Marsden?—No; we did not regard Mr. Marsden; we knew he should be the master, but we did not regard him as master.

You did not treat him with more ceremony than one of yourselves?—No, Sir.

Did you ever see Mr. Marsden walking about?—Yes.

How did he walk; in what manner did he walk?—Sometimes he talked to himself.

Fast or slow did he walk?—Sometimes fast and sometimes slow.

Did he walk with a stick?—Yes.

You were there a year and a half?—Yes.

And slept in the house?—Yes.

Did you ever know him transact any business there?—No.

Or order any clothes or shoes for himself?—No; I never did.

Was he assisted by a servant?—Yes.

By GURNEY, B.—Were you there at any time when he ordered any shoes or got any?—No, my Lord.

By SIR JAMES SCARLETT.—Did he use to come into the kitchen or servant's hall?—Sometimes he did.

Cross-examined by the ATTORNEY-GENERAL.—You were the kitchen maid, were you?—Yes.

About how old were you then?—I might have been seventeen.

How many years is it ago?—Above forty.

Is it not near fifty?—No; I think two or three years above forty years.

Where was your work; where did you do your work?—In the kitchen.

Where did you sleep?—In the room over the parlour.

Had you any thing to do with the parlour?—No.

Is the kitchen the place where people order their clothes or shoes?—No.

SIR JAMES SCARLETT.—That is a mocking upon my examination, I suppose.

The ATTORNEY-GENERAL.—No; it is not.

Did you ever see any one of the family transact business in the kitchen?---No.

*Mrs. Hill* sworn. Examined by Mr. CRESSWELL.—How old are you?  
—Sixty-three.

Did you ever live at Wennington Hall?—Yes.

When did you go there?—In 1789.

What were you?—Dairy maid.

Were you born in that neighbourhood?—I was born in Melling, about a mile from Wennington Hall.

Did you often see John Marsden before you went to live there in that service?—Yes.

And when you were in the service?—Yes.

How old were you when you left the service—how long were you there?  
—Not twelve months.

How old was he when you left the service?—I think about thirty or twenty-nine; I do not know exactly.

Had he a fancy for any particular part of the female dress?—He fancied a check apron.

Have you ever seen him with them?—Yes.

Where used he to take them to?—Sometimes to his own room.

Have you seen him there with them?—Yes.

What was he doing with them?—He had one in one hand and a pin in the other, as if he had been counting the threads, and laughing.

Was he talking?—He made a noise to himself, but no distinct words; I cannot recollect any.

Had he any fiddle?—Yes; he had a violoncello and a violin, and he was in the hall during the time I was there; he frequently made a noise with them.

Was there a lumber room in the house?—Yes; over the old hall.

Do you remember a boat being there?—Yes; there was a boat there.

Did you ever see John Marsden there?—Yes.

In the boat?—Yes.

What was he about?—He was doing nothing that I know of when I saw him; he was see-sawing backwards and forwards as if he was rowing with an oar, and when he saw me he jumped out and went away.

That was the first time you saw him?—Yes.

Did you ever see him in it again?—Once after.

What was he doing then?—He was in the same place with a different dress again; he had his clothes that he had got out of a dark lobby room that led to the old hall room, and he went into the closet, and these clothes were deposited in that closet; they were green and white twilled plaid, and those clothes belonged to the man that attended the boat, during Henry Marsden's lifetime, but they were not used at that time; he had got those clothes on the last time I saw him, and he was in the boat see-sawing, as if rowing.

Were you in the service then?—Yes.

How old was he then?—Past thirty or so; I cannot say to a year.

Do you remember a man of the name of Tommy Thomson there?  
—Yes.

What sort of a person was he?—He was a poor silly creature; he came







there every day, and he very frequently carried dinner into the dining-room, or any trifling thing that he could do.

Did you ever see him and John Marsden together?—At different times.

Did they appear to be friendly?—Yes; and Tommy called Mr. Marsden master.

Did you ever see them playing together out of the house?—Yes; with sticks.

Did you ever see one running and the other running after him?—(No answer.)

The ATTORNEY-GENERAL.—Ask her what they were doing.

*Witness.*—They were making a great noise, and two dogs with them; Mrs. Cookson's dog and another little dog; they were making a great noise, as if ringing bells; they entertained themselves.

Did Marsden appear to be afraid of those two dogs?—Not of those two, but of others he was; he appeared to be generally afraid of dogs.

Did you ever see him with a rat?—Yes; I saw Tommy Thomson with one to a string, and Tommy was running with it, and Mr. Marsden followed it with a stick into the next field, and sometimes he hit it and sometimes he could not reach it.

Did the rat run away?—It was a dead rat, and how could a dead rat run away?

Who ran with it?—Tommy ran with it; it was tied to a string.

Had Wright a room at Wennington Hall—any room for business?—Yes; he had a study on the other side of the old hall; they called it a study; it went by that name.

Did you ever see Marsden attempt to go into that study when Wright was there?—I saw Wright putting him out once.

You saw Wright putting him out?—He pushed him out; I mean the same as putting; it is all to one meaning.

What did he say?—He said "get out, you fool, what do you want here?"

Did you ever hear Wright use such words as those on any other occasion?—He called him always Marsden only. There was only one pair of stairs where they all went up. The old hall stairs were filled up with lumber, and there was no getting up, so I had an opportunity as we all went up one pair of stairs; of course I saw that frequently in going backwards and forwards. When Marsden was going backwards and forwards, I saw him frequently in the servants' hall.

Did you ever hear Wright use such language to him at other times?—At one time he called him back and said, "Come back, you fool, where are you going? Marsden, come back."

Did he come back?—Yes, he did. It was in the baking house I saw him.

Do you remember Mrs. Cookson getting a fall one day?—Yes; she fell down stairs; I remember it very well.

And do you remember Wright talking to her about it afterwards?—Yes.

What did he say?—He told her she was drunk or else she would not fall.

What did she say?—She told him she was not drunk at the time, and if she were it was nothing to him: that he had the most daring impudence to say so, but she was not drunk. She said he had taken advantage of her and her nephew, and that he knew her nephew never had proper understanding since his cradle; that she had advanced him, and that he had the most daring impudence to insult her.

What did Wright say to that?—He said several things, but I could not understand it; he kept saying that she was drunk.

By GURNEY, B.—Was she drunk?—No, my lord, she was perfectly sober.

By Mr. CRESSWELL.—From what you saw of Mr. Marsden, before and after you lived there, had he a good understanding or not?—I considered him not a man capable of conducting his own affairs—never any one asked for him.

Did he act as the master of his own house?—He never was master of any thing apparently.

Cross-examined by the ATTORNEY-GENERAL.—You were examined at York?—Yes, I was.

How long is it since you have seen Mr. Marsden at all?—I saw him the year after I left.

How many years is that ago?—I cannot say exactly; it was the year after. I am 63.

How long ago is it since you left?—I do not know exactly. I shall tell you my age. I calculate I am 63. I was christened at Melling.

How old were you then?—Between eighteen and nineteen when I came away.

Have you not seen him since you were eighteen years of age?—Only once since then.

Where was that?—On Melling Moor, with a stick in his hand.

When was that?—To the best of my judgment, it was twelve months after.

What was he doing?—He was doing nothing.

For forty-four years you had not seen him at all?—No, I had not.

How far was it from Wennington Hall where you saw him?—About half a mile from Wennington Hall.

Was he alone?—Yes, alone.

Nobody with him?—No.

Was there any body in sight?—No; I saw nobody.

You say that Tommy Thomson used to take the dishes into the parlour?—Yes; to please Tommy Thomson they allowed him to do so; he did not stop there at nights.

You were there nine months?—I kept no journal; I believe it might be so; I came away at Whitsuntide.

Did you tell all this at York?—I was not asked every thing at York; I answered the questions.

Do you know what you said at York?—Yes; I recollect.

Have you not been told what you said at York?—No, not by any one.

Have you had any thing read over to you since you were examined at York?—Nobody read over any thing to me.

Had any body examined you?—They had no occasion to examine me.

Have you ever said any thing to any body about the trial of this cause since the last trial?—I have not.

Did you speak to Mr. Higgin?—I never saw him but once.

Or his clerk?—I do not know his clerk.

Nor Admiral Tatham?—No.

Then am I to understand that you never have spoken to any body since you were examined at York—is that so?—I have not seen Admiral Tatham.





I ask about any body?—No.

After you went out of court at York till you came into this court, you never said any thing to any body; have you not mentioned any particulars to day that you had not mentioned at York; have you not mentioned several particulars to day that you did not state at York?—There have been some trifling things mentioned.

That you were asked by those gentlemen?—There has been some things more than they asked me; there was not every thing asked me as they did before the commissioners.

*Mrs. Isabella Clemenson*, sworn.—Examined by Mr. STARKIE.—Mrs. Clemenson, what age are you?—I am going of eighty-four.

Did you and your husband live near Wennington Hall?—Yes.

Do you remember Mr. John Marsden?—Yes.

Did John Marsden come occasionally to your husband's house?—No, not much; he did not.

Did you see him occasionally at the house?—He came when he wanted him to help him past a steg or gander that he durst not come by.

Do you mean by a steg, a gander?—Yes.

Can you tell us how long it is ago?—I cannot tell.

Was he a man grown?—Yes.

Was it after or before his brother's death?—After his brother's death.

Was that your gander?—Yes.

Have you seen him with a stick, when he passed?—He had a stick in his hand then.

What did he do with the stick?—He quivered it to get the gander away.

When he quivered the stick in that way, at the gander, what did it do?—He called upon me to put it away.

Did you hear the gander hiss at him?—Yes; it hissed at him.

What did he do then?—He stood still and was afraid to pass. I took the gander by the neck and put it into the yard.

Have you seen him more than once, when the gander was there?—I saw him no more than on that account.

Do you recollect your husband going to make a fence in a field near Wennington Hall?—Yes.

Did you see Marsden there?—Yes; I went with my husband.

Your husband had a field there, I believe?—Yes; adjoining to Mr. Marsden's.

When you went with your husband, and Marsden was there, what did Marsden say?—Thomas had his axe, and Marsden said to Thomas "where are you going?" and my husband said "I am going to make a fence."

What said Marsden to that?—He asked whether it was for him; my husband said "no; I am going to work for myself." He showed him his own field where he was about to work.

What said Marsden?—Marsden said, "is that your field?" and my husband said, "yes, it was;" and then Marsden had a stick in his hand, and he stamped upon the ground, and said, "Is this your field?" "No," Thomas said. "Is that your field?" "No, that is yours." "Is it mine?" and then he pointed the stick to the field, and said, "Is that mine?" Thomas said "it is yours, Sir;" and then he walked off, and said no more.

Are those fields near the Hall?—Yes; close to the road.

How far from the Hall?—One hundred and fifty yards, or less; I cannot tell exactly.

*John Rutherford*, sworn. Examined by Mr. ARMSTRONG.—How old are you?—Sixty-six.

Were you the husband of the witness who has been examined before?—Yes.

Did you live with the late Mr. Croft, as gardener?—Yes.

When did you go to him—what year was it when you went to him?—I do not recollect the year.

How many years were you with him?—Three years and a quarter.

Was he living at Gargrave, at the time?—Yes.

You were his gardener?—Yes.

Did he visit at Wennington Hall?—Yes.

Did you go with him, as his servant?—Yes; at the shooting and fishing season.

Were Mrs. Cookson and Wright living there then?—Yes.

And Mr. Marsden?—Yes.

Did you frequently see Mr. Marsden, on those occasions?—Yes.

Has Marsden spoken to you about Mr. Croft?—Yes.

What did he say about Mr. Croft?—He said he was his tutor.

Have you heard Mr. Croft speak of Mr. Marsden?—Yes.

Was Mr. Marsden by?—No.

Mr. ARMSTRONG.—I propose to ask a question, as to what was said.

ATTORNEY-GENERAL.—I object to it. I apprehend that what Mr. Croft said when Marsden was not by, cannot be evidence in this case.

Mr. ARMSTRONG.—You put in some unanswered letters of Mr. Croft.

GURNEY, B.—Those letters were admitted, as well as some others written by persons addressing Mr. Marsden, but the weight of them ought to be taken with great limitations, as anything taken of this sort, would not be evidence.

SIR J. SCARLETT.—We will not press it, but your lordship will be pleased to take a note of it.

GURNEY, B.—I have.

Who appeared to be the master of the house, when you were at Wennington Hall?—Mr. Wright.

Do you remember any person speaking of Wright, as Mr. George, in the presence of Marsden and Mrs. Cookson?—He was formerly called Mr. George, before he got to be called Mr. Wright.

Do you recollect, on any occasion any one speaking of him as Mr. George, when Mrs. Cookson and Mr. Marsden were there? Did you hear Mrs. Cookson say anything to Marsden, as to Wright being called George?—Yes; he was christened Mr. Wright then; the other name was checked. He was not called George after that.

Who checked any person calling him by that name?—Mrs. Cookson.

Whom did she check?—Some of the labourers.

Was Mr. Marsden there?—Yes.

Did she tell Marsden to go and tell them not to call him any more Mr. George, but Mr. Wright?—Yes.

What did Mr. Marsden do after that; did he go and tell them this?—He ran fit to break his neck to get to them.

When you left Mr. Croft's service, did you go to Wennington Hall?—Yes.

How many years after?—Nine years afterwards.

Did you live at Wennington Hall till they removed to Hornby Castle?—Yes.







Did you afterwards live at Hornby Castle?—Yes.

How long were you there?—Six or seven years.

Who hired you?—Mr. Wright.

When the family went to Hornby, were you left behind for a short time to take care of Wennington Hall?—Yes; above a year.

Did Marsden ever give you any directions?—No; never.

Who did?—Mr. Wright.

How did Mr. Wright treat Mr. Marsden?—Sometimes roughish.

How did Marsden behave to Wright?—Very civilly.

Do you remember a new garden being prepared at Hornby?—Yes; I was there.

Did you see any thing of Marsden when you were about that work?—Yes; he used to come to me to inquire something of me.

To inquire about what?—It was not begun; he used to come and inquire when it was to be begun, or to be made.

Did he know where it was to be made?—Not till I told him.

Do you remember Mr. Wright coming in sight when you were speaking to Marsden?—Yes; at the bottom of the hill, and he was on the top.

Did Mr. Wright pass you or say any thing?—Yes.

What did he do?—I was coming up to my dinner, and he said, “What has Marsden been saying to you?” I said he was inquiring about the new garden, and that I told Mr. Marsden he should ask Mr. Wright himself. Wright said, “What has Marsden been saying to you then?” Mr. Marsden came up behind me, looking about, and Wright said, “What do you ask him about where the garden is to be made, you d——d fool and block-head; you must be an idiot and a blockhead to ask him—ask me.”

Do you remember his keeping Wright waiting once when they were going somewhere in the carriage?—Yes.

How did Wright treat him then?—He told him to come immediately, otherwise he would go away and leave him.

What expression did he use?—That he would go away and leave him, if he could not come at the time appointed, as the chaise was waiting.

Was Mr. Marsden afraid of any animals?—Oh, yes.

What was he afraid of that you saw?—Dogs, geese, and turkeys, and all those kind of things.

Have you ever seen him chased by a turkey cock?—Yes.

Have you ever seen him in any place which he durst not leave?—Yes.

What was to prevent him, and why dare he not leave it?—In the privy he used to be two or three hours at a time.

What kept him there?—Sometimes the geese, and sometimes the turkeys.

Have you ever released him by driving them away?—Yes.

How did you know he was there?—I heard him shouting out; I was brewing, and the turkey cock was standing there; I had to chase him to the back door, and he called out “Murder! murder!” and Marsden got hold of me by the coat-lap at the back door.

Cross-examined by the ATTORNEY-GENERAL.—Where were you born?—In Roxburghshire, near Jedburgh, if you know that place, in Scotland.

You lived first with Mr. Croft?—Yes; I did.

You say that you heard Mrs. Cookson tell Marsden to go and say that they were to call Wright Mr. Wright?—Yes; I did.

How happened you to be there at that time; was that what you call christening Wright?—That was done before he had been to London; he was not christened Wright before that but a month or two.

Had people called him that for a month or two?—Some of them did not know till they were told.

Where did Mrs. Cookson send Marsden to?—To the labourers that passed; there were some of the domestics that were going past.

Some of the servants of the house?—It was some labourers, perhaps, or the domestics.

Do you know whether they were labourers or domestic?—They were labourers, I think.

Were they in the house or in the field?—In the field.

How far from the house?—Two hundred yards.

What were they doing?—They were going from one building to another, or one field to another.

What do you mean by going from one building to another?—There are coach-houses and stables; they were going across from the house towards the cow-houses.

How far are the cow-houses from the house?—I do not know; not far.

Were they going from one house to another, or only to another?—They were going from the cow-house to another, they had to go through a field before they got there.

How far is the coach-house from the cow-house?—Not far.

Is there a field now?—No.

Is there any field between the house and the cow-house?—No.

What do you mean by there being labourers in the field?—They must go into the field and where the cow-house stood and the coach-houses were.

What were the men doing?—They were going to milk the cows, but I am not sure.

What said Mrs. Cookson; what message did she give?—She desired him to go to those people to tell them that Mr. Wright was no longer “Mr. George,” but “Mr. Wright.”

How many of them were there to whom this communication was made?—I only saw one, but she told him to tell every one that he heard calling him George.

But cannot you tell me the name of one man?—Yes.

And you say Marsden was running very hard, fit to break his neck?—Yes; very hard.

There was only one man to tell that to?—Yes; but he was to tell others.

Did it seem to be news to Mr. Marsden?—I do not know about news; he had heard it before, I dare say.

How long have you stayed there at a time with Mr. Croft?—A week or a fortnight together.

Was that in Henry Marsden's time?—No; I never knew Henry at all.

How came you to go with Mr. Croft, when you were his gardener?—I was also his footman, his gardener, and his servant.

And what not?—I did a great many things; he had a waiting-man besides.

He had the living of Gargrave then?—Yes.

How long did you live as servant in the family?—I told you three years and a quarter.





How long were you in Mr. Marsden's family when you went there about nine years after?—About six or seven years altogether.

Were you at York?—No.

Were you examined here in this town under a commission?—I was examined.

When?—About two years ago.

Mr. ARMSTRONG.—He was to have been a witness the last time.

Where do you live now?—At Heysham.

How long have you lived there?—Thirteen years.

Where before that did you live?—In Lancaster.

How long in Lancaster?—Many years.

Were you living here when Admiral Tatham was here.—Yes.

All the time?—I do not know how long he was here.

You had seen him?—Yes.

Perhaps spoken to him?—Yes.

When first have you spoken to him?—Two years ago and better since.

Where was that?—At Lancaster.

Where was it; at his house?—No.

Do you remember the trial at York; was it before that?—It was before that.

Do not you know that that is four years ago?—Yes.

How long is it ago?—I do not know.

Is it one year?—Yes, more.

Is it as much as two?—Yes.

As much as three?—Yes, I dare say it is; I am not certain when the trial was.

Was not your conversation with Admiral Tatham before the trial at York?—Yes.

How long before?—A good while before that.

Where did you see him?—I saw him in the street first—that was the first time that ever I saw him.

Where next?—At his own house, perhaps, but I am not sure.

Was it in his own house, do you think?—I think it was.

Did you tell him this story?—What story, Sir?

What you told us to-day?—No; I do not think it—perhaps not at all.

Did you tell him anything?—What he asked me, perhaps I told him.

That is not so many years ago; you may recollect it?—(No answer).

Sir J. SCARLETT.—It is not evidence.

The ATTORNEY-GENERAL.—Is it not; do you mean to object to the question?

Sir J. SCARLETT.—No.

The ATTORNEY-GENERAL.—He had no conversation with him! You seem to forget that Admiral Tatham is the plaintiff in this cause.

Did you tell him any part of what you told us?—I do not know; I have forgot.

Have you forgot whether you told him anything or not?—Yes, I told him some odd things.

Did he write it down?—No.

What did he do?—I do not know what he had done with it.

Was it in his house?—Yes.

Which room?—I cannot tell you.

Have you forgotten?—Yes.

Was anybody else there?—No.  
 Nobody else?—No.  
 How long were you with him?—Not long.  
 How long?—I cannot tell you; I do not know.  
 Do you mean you did not look at your watch?—No.  
 Was it half an hour?—Half an hour or a quarter.  
 Was any attorney there?—No.  
 Were you alone with him?—Yes.  
 How long was that before the York trial?—I do not know.  
 About how long?—I do not know; I was not at the York trial.  
 You heard of it?—Yes.  
 You recollect a great many people going to York from Lancaster?—Yes.  
 How long was it before that you were with Admiral Tatham alone?—I do not know.  
 Have you ever seen him since?—No, I have not.  
 Have you ever been examined since by any body else?—Yes.  
 By whom?—I do not know what they call him.  
 Did you never know him nor hear his name mentioned?—No.  
 Have you seen him since?—I have seen him.  
 Is he in court now?—No, I do not see him.  
 Where did he examine you—was it in Lancaster?—Yes.  
 Whereabouts—what house was it in?—I have been asked some questions in Mr. Higgin's office.  
 Is that the place you mean?—I have been asked questions, and that is the chief place.  
 Any other place; what other place?—I do not know.  
 Who was it that asked you questions in Mr. Higgin's office; was it Mr. Higgin or some other gentleman?—Some other gentleman.  
 Have you seen him several times?—Yes.  
 Did you ever see him any where else except in Higgin's office?—In the street.  
 But you do not know his name?—No.

*Thomas Blizard* sworn.—Examined by Sir J. SCARLETT.—Mr. Blizard what are you?—All I follow at present is portering for Mr. Horrocks, of Preston.

Do you know Wennington Hall?—Yes.  
 Did you know the late Mr. John Marsden?—Yes.  
 You never lived in his service, did you?—No.  
 Have you seen him out hunting?—Yes.  
 Have you seen him in a field?—Yes, I have.  
 Have you ever observed how he got out of a field?—Yes, I have; I have seen him sometimes riding up and down the field, and could not get out when the gate was quite open.  
 Have you seen any one go in to help him out?—I have gone in myself.  
 How have you helped him out?—I led him into the road through the gate by taking the bridle of the horse.  
 Where were the hounds in the mean time?—They were got out of sight.  
 Has that happened more than once?—Yes, I helped him once or twice before.  
 You have done it two or three times altogether?—Yes.  
 Have you ever seen other persons do it?—Yes, I have seen others do it, but I do not know who they were.







What have you seen them do; in what way did they do it?—When he got into the field they pulled some thorns out of the hedge to let him get through the hedge.

Did you know a person of the name of Guy?—Yes.

Was he the gamekeeper of Marsden?—Yes, I believe he was.

Do you know whether he was so or not by any thing?—He used to carry a gun at the castle, and wear a green coat.

How long was he in that situation do you know?—I do not know.

Can you tell whether it were a week or a month, or two or three years?—Two or three years.

Do you ever remember seeing that man once with Mr. Marsden?—Yes.

Do you ever remember seeing him follow him from Wennington Hall?—Yes.

Did you see Marsden go out first?—I saw Marsden first go by me.

How near was that to Wennington Hall?—It was on Wennington Green.

When Marsden first came by you?—Yes.

What time of the day was it?—Twelve o'clock in the day.

What did you next see?—I saw Tom Guy following him, and he asked Marsden where he was going; and he mentioned about one Saul, of Brig-end, and Guy said you must not go; he would not turn back; he proved stupid or obstinate, and would not turn back.

What did Guy do to get him back?—He said he must go back; he had a switch in his hand, and gave him two whaps; he had a switch, and he gave him two strokes, and then Marsden screamed out and ran away, and said—"Oh dear, oh dear!" he ran straight away through the gate and back to the house, and I saw no more of him.

Did Guy remain in the service some time after?—Yes, he did.

Cross-examined by the ATTORNEY-GENERAL.—How long after that did Guy remain in the service?—Two or three years.

Where were you living since that time?—Near Hornby Castle.

How old are you?—Fifty-eight years of age.

How long is this ago; how old were you when this happened?—I was only about seventeen or eighteen years old.

How long was it that they remained at Wennington Hall after this happened?—It might be four, five, or six years; I cannot tell; I cannot tell within a few years.

How long do you believe they did remain?—Five or six years.

Who was the gamekeeper after Guy?—I have forgotten; I do not know.

What was your occupation at that time?—My father had a farm called South Garth, and I lived with him.

Were you often out with the hounds?—Sometimes, but not so very often.

You say you once saw Marsden in a field?—Yes.

And you got him out?—Yes.

Had he his spectacles on then?—Yes, he had; I believe he had spectacles on that time.

What was it that prevented him getting out?—He went by the gate, and he wanted to know where the hounds were; he could not get out.

Did he go by the gate and did not know that the gate was the place to go out at?—Whether he had seen the gate or not I do not know; he went by the gate and it was quite open; he might have seen it; I cannot tell.

How did he go—all round the field? He might have gone twice, but not quite round.

How often have you seen that happen ?—I helped him out several times.  
How often have you seen it ?—Four or five times.

You said something about pulling out thorns ?—Yes, when thorns were let in the hedge to stop a gap. I have seen him three or four times in a field that he could not get out.

Did you say something about three or four persons helping him ?—Yes, I did.

Do you mean there were three or four persons who could not get out ?—No, he was the only person; they were helping him out of the field.

Were those persons hunting with him ?—No, I did not know them, but if I did know them I have forgotten them.

Was Marsden dressed in a red coat ?—No.

Was he ever in a red coat ?—I cannot say.

Was he in a green coat ?—I cannot say that.

You were not a witness at York ?—No.

To whom, connected with this cause, did you first tell this story of Guy striking him with a stick ; who did you tell that story to first ; you were not a witness at York, were you ?—No, but they found me out.

Who came to you ?—They call him Martin, but I have forgotten his christian name ; he is a man who takes care of us now at Miss Noon's inn. What do you mean by taking care of you ; is he a sort of whipper-in of the witnesses ?—He collects us all together.

Did you know a man of the name of Saul, at Preston ?—Yes.

What was he ?—He was a farmer.

Did you know a hair-dresser at Preston ; a barber ?—No.

Do you know a person of the name of Saul, a barber ?—No, I do not.

Did you ever know such a person ?—No, I cannot say I ever did.

Well, now, you say Martin found you at Preston ?—Yes.

Do you know what he is ?—He keeps a jerry shop at Fishwick.

Where did he take you to ?—To Mr. Buck.

Who is he ?—He is an attorney in Preston.

How long is this ago ?—Nearly a year and a half ago.

*Edward Layfield*, sworn. Examined by Mr. CRESSWELL.—Where do you live ?—In Preston.

How old are you ?—Sixty-six.

Did you ever live at Hornby ?—Yes, I was brought up at Hornby.

What business were you brought up to at Hornby ?—A cordwainer.

Was Marsden then living at Hornby Castle ?—Yes.

Did you work for the Castle ?—Yes, for about thirteen years.

When did you begin to work for the Castle ?—Within the course of half a year after Marsden came there.

As near as you can recollect, when did he come there ?—About thirty-four or thirty-five years since ; it may be longer.

GURNEY, B.—We know the date.

Had you a brother, apprentice in Lancaster ?—Yes.

Who was he apprentice to ?—To Worswick, of Belle hill.

Before you went to live at Hornby ?—No ; I was living at Hornby then.

Was that before Marsden came to Hornby ?—Yes.

Were you ever at Worswick's when your brother was there ?—Yes.

Do you remember George Wright coming there ?—Yes, very well.





How did he get his living then?—He brought game to sell.

After that, do you remember seeing him at Hornby before he went to Wennington?—Yes.

Whom did he live with there?—With Dr. Geldert.

Had he a livery?—Yes, he had a short jacket, with a small red collar.

Who was Marsden's servant when he came to Hornby?—Thomas Waller was his butler.

Who was his groom?—He had many different ones; he changed several times.

Did Waller live there many years?—Yes.

Did you ever go to measure Marsden for shoes?—Very frequently.

Were you in the habit of asking him what sort of shoes he wanted?—The butler went along with him; he used to say, "here is the shoemaker's shop, come in," "very well;" he said, "what sort of shoes do I want Tom? is it going to be winter weather, or summer weather; I must have shoes made according to the weather."

Did that happen once, or more than once?—Many different times. After I had made them, he said to Tom, "I do not know the sort myself;" after I had measured him, he said, "you must go to Tom; he will tell you what sort of shoes I want; I do not know."

Did Thomas Waller give you directions what sort of shoes to make?—Yes.

Do you remember ever being sent for to measure him for a pair of boots?—Yes, at different times.

Do you remember once when Ben Robinson was there?—Yes.

What was he?—A clerk at the Castle.

Was any thing said, as to what Robinson was to do?—When I was sent for at the time, I saw Thomas Waller in the kitchen.

Was Waller present?—Yes; Thomas Waller went with me and Robinson into the room to Marsden; he said, "is this my shoemaker?" he said, "Yes." Then Marsden said, "you must measure my leg for a pair of boots; I want to send a pair of boots to Mr. Barrow, and you must measure me." I said, what! "measure Marsden for another gentleman?"—Yes; Robinson said, "you may measure him," and Marsden said to Robinson, "he should set down the measurement, as I shall want other gentlemen to have boots."

Did Ben Robinson set it down?—Yes.

Was any thing said about the boots fitting, or any thing about Marsden's leg?—No; I did not send up the boots.

Did you receive any directions from him afterwards?—No.

Did you make the boots?—No; I did not.

Why did you not do so?—There was something said to me.

GURNEY, B.—That was out of Marsden's presence.

Did Marsden tell you not to make the boots?—No; he ordered them to be made.

Have you ever seen Thomas Waller with Marsden when they were hunting?—Yes; many a time.

How did Waller treat him?—I have seen him leave him an hour or two, and go to the field when they were hunting, and tell him, "the d—d fool may come after me."

What did Marsden say or do?—He used to go after him.

Was you at Hornby when there were some pigs there with a sow?—Yes.

Were there any boys about ?—Yes.

Did Marsden come to look on ?—Yes.

What became of him then ?—He went to a distance, and then he turned back ; he asked what it was doing ; they said, “ getting pigs,” and he said, “ no, no—children, children.”

Was there a clergyman named Butler then living at Hornby ?—Yes.

Do you remember being there talking to a servant one day, when Marsden was dining there ?—Perfectly well.

Did you see Marsden in the evening ?—Yes.

Where was he ?—He came out of the front kitchen door of Mr. Butler’s house ; I was near, and he came right up to me ; the door was half open ; he wanted to make water, and he began laughing, and he said, “ I must have a lady ; I will be married ; Wright says I must not ; but I do want a lady, and I must be married.”

Was he talking to any one but himself ?—There was nobody but himself.

Did he see you ?—He did not.

How do you know he did not see you ?—The door was half open ; I was on one side, and he was at the other ; I do not suppose he saw me at all ; I was less than two yards from him.

Did he then return back to the house ?—Yes ; he returned back again.

Did you ever see whether he was afraid of dogs or not ?—Many a time.

Did he ever speak to you about going to the gamekeeper for him ?—Yes ; different times.

What for ?—For him to come down and shoot the dogs.

Did he say any thing about paying you for going ?—No ; never.

Do you remember going to Marsden about making some slippers ?—Yes ; at the time I was working for him.

Who came for you ?—A boy under Thomas Waller.

Did he order any slippers ?—He ordered nine pair.

What sort were they to be ?—Different colours.

Did you make them ?—I did.

After you had made them, did you take in your bill ?—In the course of six months.

Who to ?—To Mr. Wright.

Did you see Mr. Wright about them ?—I did.

What said he ?—He said he was not to give any such price for the slippers ; I said, “ I could not do it at less ;” he said, “ I had no business to make the slippers without his knowledge ; Mr. Marsden was not capable of giving an order of that sort.”

Who generally gave the orders about the Castle, as far as you saw ?—I never had any orders given me from Marsden, but by Thomas Waller.

Did Wright pay for the slippers ?—Yes ; by taking two shillings a pair off.

Have you seen Marsden walking about there ?—Yes.

How used he to go about ?—In different directions.

Much by himself ?—Yes ; when he was about the Castle ; he came to the village.

How did he go ?—Sometimes quick and sometimes slow ; and always frightened lest something would molest him.

Did you ever see him out hunting ?—Yes ; scores of times.

Did you ever see him left in a field by himself ?—Yes.







What became of him then?—I conducted him myself.

Was there a turkey cock at Hornby?—Yes.

Did you ever see Marsden meet a turkey cock?—Yes; I have seen him point his stick at him when he put his feathers up.

Had you a journeyman that kept a bird?—Yes.

What sort of bird was it?—A throstle.

Did it sing?—Yes; we frequently hung it out in a cage at the door.

Did Marsden ever come to see it?—He stopped to look at it many a time.

Did he say any thing about its singing?—Yes; he asked “Why it was that the eagle did not sing as well as the throstle—the eagle on the top of the castle?” I said “It was too old to sing.”

Was the portico new where the eagle was?—There were two eagles, a large one at the top, and a small one at the bottom; and he said “But there is another smaller one;” and I said “That is too young.” Then he said, “Then neither of them sing at all, one being too old, and the other too young.”

Were you ever present when he was walking about?—Yes.

Did you ever see him give any orders?—Never; they were only given by Mr. Wright.

That you have seen?—Yes.

Did you ever see Mr. Marsden and Wright together?—Yes; sometimes they went out in a chaise, but I never saw them walk together in the town.

Did you ever hear Wright speak to him, so as to know how he treated him?—I cannot speak to that.

Cross-examined by the ATTORNEY-GENERAL.—There is an eagle at the top of the tower?—Yes.

What is it made of?—It is brass, or some kind of metal.

And there is an eagle at the portico, a smaller one?—Yes.

What is that made of?—It is the same colour as the other is,---gilded over like gold.

Do you mean to say that Marsden did not know the meaning between a living and a dead thing?—I do believe that he had not that knowledge as to that, and that he did not know but the brass eagle would sing as well as the thrush.

How long is that ago?—About thirty years since.

In what year was that?—It may be thirty-six years ago.

That would be about the year 1798 or 1799?—I cannot say possibly to the year.

Do you remember Mr. Baron Bolland being at the castle?—I have seen Mr. Barrow many a time.

I do not mean him; I mean Mr. Baron Bolland: do you remember him being here as a Judge?—I heard him spoken of, as to his being here as a Judge.

Or being as a visiter at the castle?—I never heard it said that he was at the castle.

Did you ever see any gentlemen at the castle?—Many scores.

Did you ever see Mr. Lushington there?—Not to my knowledge.

What gentlemen have you seen?—I cannot say.

This was thirty-six years ago?—Yes; or thirty-five.

Sir JAMES SCARLETT.—I must a little derange my evidence by calling Mr. Gladstone, who has to go to Edinburgh. Send to the grand jury room for Gladstone.

*John Gladstone, Esq.* sworn.—Examined by Sir JAMES SCARLETT.—Mr. Gladstone, I believe you were once member for the town of Lancaster in parliament?—I was.

How many years ago is it since you were a candidate here?—The election took place in 1818.

Previous to the election were you engaged in canvassing the interest that supported you here?—I was.

Do you know Mr. Wilson, Mr. John Taylor Wilson, the town-clerk of this town at that time?—Yes; I do.

On that occasion had you any communication with him respecting the parts of the county you were to canvass?—I had communication with him as to the route I was to go in canvassing the neighbourhood, and the parties whom I was to go to.

Among others was Hornby Castle mentioned?—Yes; Hornby Castle was particularly mentioned.

Do you recollect Mr. Wilson telling you that in canvassing Hornby Castle, Wright was the person you were to apply to, for that Marsden was under his control, or directed by him, or under his management and direction?—(No answer.)

ATTORNEY-GENERAL.—We had better take it from your lordship's notes.

GURNEY, B.—Stop a moment, I will give it to you: "I remember the election, and Mr. Gladstone was a candidate. I do not remember any application to me about Marsden's vote, and my referring the person to Wright. I do not recollect the words---George Wright generally canvassed Marsden's voters; I know Marsden sent them round." That is all.

Had you a conversation with Mr. Wilson respecting the canvassing Mr. Marsden's interest?—I saw Mr. Wilson more than once upon the subject of my general canvass at that time.

Had you a conversation with him about whom you should canvass at Hornby Castle?—I had.

ATTORNEY-GENERAL.—I apprehend that this is really not evidence. I apprehend the rule to be this—if you ask a witness whether he remember so and so, and if he say he do not, but does not deny it, and says, "for anything I know it may have taken place," you cannot ask further.

Sir JAMES SCARLETT.—I will put it otherwise.

In consequence of any conversation you had with Mr. Wilson, you went to Hornby Castle; may I ask to whom did you apply?—(No answer).

ATTORNEY-GENERAL.—That is an observation applicable to the witness's credit.

GURNEY, B.—The application to the evidence is to be a contradiction of it, and this is not.

Did you go to Hornby Castle?—I did.

Who went with you?—Mr. Ewart, a particular friend of mine.

Had you ever seen Mr. Marsden before?—Not to my knowledge.

Whom did you canvass?—We went early in the morning; we got there before breakfast; the first person we saw was Mr. Wright.





What did you say to him?—I solicited his support and influence in my favour, as a candidate for Lancaster.

What answer did Wright make?—He gave me no assurance of support; but soon afterwards Marsden came into the room, and I then addressed myself to Marsden, who bowed very courteously to me, and said very little; but from that little I could collect nothing from it of support, or otherwise. I received no assurance from Wright, although I received no denial; he afterwards, I believe, did use his influence.

Had you any conversation with Marsden?—We were invited to breakfast, and we stayed. Wright and Marsden, and several ladies, were at the breakfast table, and I attempted once or twice to address myself to Marsden, without any success; he either declined conversation, or, as I had been previously told, (interrupted)

GURNEY, B.—You must not do that, you must not allude to anything you were told.

You attempted to address Mr. Marsden, to get him into conversation, but without success?—Yes.

That was at breakfast?—Yes, and we left after breakfast.

Had you any conversation with him at all?—I could not say that anything that passed between us amounted to conversation.

Could you say whether he appeared, in your judgment, to have a distinct understanding of what your proposal was?—There was an apparent timidity about him, or an unwillingness to converse. I did not know enough of him to know the cause, but he was either unwilling to converse, or was incompetent to do it.

Did Wright intimate that he would support you?—He conversed with me.

Did you get his interest at the election?—I got a divided interest of votes, influenced by Marsden and Wright.

By GURNEY, B.—Did you get the interest of Hornby Castle?—I got a portion of it; the votes were split, and one was given for me.

By Sir J. SCARLETT.—Do you remember whether Marsden came to vote?—I believe he did.

Now suppose you had heard nothing about Wright or Marsden; do not combine what you heard before, with what you saw; from what you saw of the manner of both, at the time when you were there, who should you have taken for the master of the house?—I should have said, that apparently the direction of matters connected with the business upon which I went, was with Mr. Wright; and he appeared to be the principal party there.

Cross-examined by the ATTORNEY-GENERAL.—Then you had one vote, you say?—I believe so.

Wright was a freeman of Lancaster?—I believe so; I addressed him as such.

Do not you know that he voted?—Yes.

Are you a Member of Parliament now?—No.

Do you mean to say that you did not know whether Wright was a voter or not?—I believe he was.

Now, I presume you know that in canvassing, when you go to canvass, you canvass all equally, do not you?—Certainly, wherever there is a vote to be obtained, I should ask the individual for his vote; wherever there is a particular influence extending beyond his own vote, I should take more pains to conciliate the party.

But that is not my question ; my question is this, if you were to go to Colchester Place, you would pay the very same attention to every body that has a vote ?—Certainly.

Did you breakfast there ?—Yes.

Was Mr. Cawthorne there ?—No ; not upon that occasion, to my recollection.

Was he a candidate at the same time ?—Certainly.

Were any gentlemen there ?—I do not remember more than Ewart and myself, as strangers ; there were Marsden, Wright, and several ladies ; I do not recollect any other being present.

Is that the only time you ever saw him ?—I have an impression I saw Marsden after the election—after he had given his vote.

You had no conversation with Marsden when he gave his vote ?—No further than thanking him.

His manners were courteous ?—Yes.

How long might you remain there ?—From half an hour to an hour.

You went immediately after breakfast ?—Yes ; to the best of my recollection, immediately after breakfast, after settling matters. I cannot speak to that with a positive assurance, as to whether it were half an hour or three quarters of an hour that we remained after breakfast.

By GURNEY, B.—Was Mr. Cawthorne a candidate at the same election ?—Yes.

By the ATTORNEY-GENERAL.—Did Mr. Gladstone coalesce with Cawthorne any time of the election ?—Certainly not, with neither Mr. Cawthorne nor General Doveton.

Did not many of Mr. Cawthorne's friends support you at the beginning ?—I cannot tell ; but a great many split with me, and many of General Doveton's, and I had a great many single votes.

*John Hayes* sworn. Examined by MR. STARKIE.—What age are you ?—Seventy-three.

Did you formerly work at Wennington Hall and Hornby Castle ?—I lived very near Wennington Hall. I did not work at Wennington Hall, but I afterwards worked at Hornby Castle.

ATTORNEY-GENERAL.—If it would be saving any time, I have no objection to have his examination read.

SIR JAMES SCARLETT.—I have no objection to that.

GURNEY, B.—Do you like to go on with it ?

MR. STARKIE.—I will make it short.

You worked at Hornby Castle, did you ?—Yes.

Did you know Mr. Marsden ?—Yes.

Do you know whether he was afraid of dogs or pigs ?—Yes ; I knew him very well.

Did you know Mr. John Marsden ? (no answer, the witness being very deaf, so that the counsel had to go up to him and repeat the question)—*Witness*—Yes, I did.

How long did you know him ?—Many years.

Do you know whether he was afraid of dogs at all ?—He was a man of very weak intellect ; he was afraid of dogs and geese.

Did he like pigs ?—I do not know as to that.

Have you ever seen him when there were dogs and geese there—what did he do with his stick ?—I have seen him when the geese came near him ;







he took his stick and wavered it over them, and said, "wilt thou come still, wilt thou not get away?" and then he would run back.

Did you ever see Miss Tatham with him?—Yes, very often; she was his chief companion.

Did you see her take care of him when there were dogs, or those things?—She took hold of his arm generally when walking there.

But did you ever see her there, when he was afraid of dogs, or pigs, or any thing?—Yes; if they were walking through Wennington, and if there were any pigs or geese, he would not go by till they were driven away.

Have you seen that yourself?—Yes; I could see as I sat in my own house.

Do you recollect the digging of a kitchen at Hornby Castle?—Yes.

Do you recollect Marsden coming to see you when you were digging in the kitchen?—Yes; one morning, at half-past nine, he came up where I was working, and my spade was lying upon the rubbish where I was working and throwing it out, and he pattered at it with his stick, in this form, (demonstrating it) and then he gave it a good whap, and when it stirred he ran back, and I laughed. Robert Ripley was standing on the contrary side, looking on, you know, and he said, "John, take this spade away." I looked up and said, "what for?" "O!" said he "you do not know that man so well as I do;" so I took it up, and laid it on the contrary side of him, so that when he came back he says, "take that away, it will cut ones legs off," and it was away at the same time.

Did he go away of his own accord, or did any one come for him?—He stopped a little while, and went forward, and in a little time there was a bearing barrow that was reared up against some stones, and he began to pat at it with his stick, and was playing with it, seemingly; and in a while he gave it a good thrust with his cane, and there were some stones that began to rattle back, and he ran back five or six yards, and he looked back, to see if it followed him; and the men that were working there said, "Now, you have got it." So then, in a short time, when he was standing and amusing himself there, there was a man who took him by the arm, and walked him away. The other men said, "Take him away, for he is of no use here."

Was that loud enough for him to hear?—Yes.

Did Mr. Wright come and give you any directions?—Not till after dinner.

Did he come after dinner?—He talked to me, and talked to Robert Ripley; he said, "I suppose you have had Mr. Marsden here to-day?" I said he was looking on.

Did he say any thing to you, besides?—He said "I would have you to take no notice of what he is doing or saying—he has no knowledge of what is going on."

Was that all that he said?—That was all he said. Mat Jenkinson was there.

Was that at the same time, or at another time?—That was after dinner, but the same day.

Now, tell us what Jenkinson said, when Wright was there?—He said, "Well, we will not take any notice of him; we should take more notice of him if he would give us two shillings to get a little beer;" and Wright said, "Mat, I know what you are up to; you are wanting beer now."

Had Marsden been there at other times?—Yes; at that time, and before.

Have you ever seen Wright come, when Marsden was there?—Yes; at different times.

Has Mr. Marsden been with you when Wright was coming forward?—Yes.

When he saw Wright, what did he do—do you know whether Marsden saw Wright coming?—Yes; there was some chance he would.

Can you tell whether he did see him?—Yes; he saw him.

When Marsden has seen him coming, what has Marsden done?—He walked away.

He walked away when he was coming?—Yes.

Has that happened once, or more than once?—More than once.

Has Wright ever come to you, when Marsden was there?—Yes.

What has Wright done then?—He has told him to go away, for fear of being lamed.

Has Marsden gone, when Wright told him to go?—Directly.

Do you recollect a man of the name of Thomas Holme and yourself coming from Holme's Barns?—Yes.

Was that near Wennington Hall?—Yes.

Between the canal and the lodge?—Yes.

Did you see Mr. Marsden there?—Yes; he was by the gate, coming out between the main road, walking backwards and forwards, one morning. He was walking and swinging his cane, and when within a little distance of us, we thought he was gone; so we walked on till we came close up to him: he was pointing with his stick, as we came up, and talking to himself, and we slackened our speed, with his back towards us, and in the while, he said, "That is mine, this is mine, and this is mine;" and then said, with a twirl of the stick, "It is all my own;" and when he was up to my shoulder, he said, "Jack, did you hear that?" I said "yes." Yes, I heard him say, "That is his own, and that is his own;" and Holme said, "He will not have that yet, they must let me be gone first."

Was any of it Holme's?—On the left hand side was his own: whether he could see any of his own, I cannot say.

Had Holme's land there?—Yes; there was only a hedge, between the road and Holme's land.

Cross-examined by the ATTORNEY-GENERAL—who went up to the ear of the witness, as he was so deaf.

GURNER, B.—What was it he said about this being his, and that he must wait till he was gone.

ATTORNEY-GENERAL.—It was Holmes said that.

By ATTORNEY-GENERAL.—How long is it since you saw Mr. Marsden?—I cannot say; I have not seen him for many years.

How many years is it, twenty, thirty, or forty years ago was all this?—I saw him not so very long before he died. I cannot tell how long it is since; it is eight years since he died.

How long is it since all this passed, about the spade and the holme fields and so on?—It is about forty years since.

Did you ever speak to him in your life?—Yes.

When?—When he was hunting.

I believe that was the only time?—Yes; I believe it was.

What did he say to you?—He asked me what way he must go; I said "I cannot say—you are going a hunting are you."

Was that all?—"Which way shall I go?" said he, I said "I do not know where you want to go."

Tell us all?—I will, I said go through that gap, and you will meet with



Have you ever been at Hornby Castle?—Yes.

You never were a servant there, were you?—No.

Upon what occasions have you gone there?—With a cart with different kinds of grain.

Did you ever see Mr. Marsden in the neighbourhood of Settle?—Yes.

Do you know Mr. Hartley, of Settle?—Yes.

He had got some dogs?—Yes.

Did you ever see Marsden walking when the dogs were barking?—Yes; upon the bridge and upon the road.

Were the dogs confined?—Yes.

Did you see him when he came near to Mr. Hartley's?—Yes.

What happened when he came there?—The dogs began to make a noise, and he was alarmed.

What did he do?—He ran back.

What did he do when he turned back?—He again went forward; then the dogs barked again, and he turned again.

Did he come up to you about it?—No, Sir.

Now, when he was at Mr. Lister's, did you see anything about a check apron?—Yes.

What was it?—I have seen a check apron laid upon the dresser, near the kitchen door, for him.

Who put it there?—The servant girl.

By PARK, J.—At Lister's that was?—Yes.

By MR. BROUGHAM.—What did Marsden do with it?—He took it up stairs with him.

Did you see him take it up stairs?—Yes.

How did he take it?—He took it upon his arm,

Up to his bed-room?—Yes.

You did not go into his bed-room, I suppose?—No.

Did he shut the door?—Yes.

Do you know why a check apron was laid there for him?—He could not go to bed without it. He would come backwards and forwards with the light, to see whether it was laid there for him.

And when it was not laid there, what did he do?—He did not get soon to bed then.

What did they do?—They put the apron there, and then he would go to bed.

Was there any particular way in which the apron must be laid?—Not that I know of.

Where was it put?—Upon the napkin press, near the kitchen door.

Would it do, if put in any other place, or must it have been put there?—He used always to come there for it.

Did he use to play upon anything?—Upon the fiddle.

Have you ever heard him?—Yes.

In his own room, or where?—Yes; and sometimes in the dining-room.

Who were in the dining-room, when he fiddled?—Who were in the dining-room?

Yes, when he fiddled?—He was mostly by himself.

Could you tell what tunes he fiddled?—Never but one tune.

What tune was that?—Dainty Davie.

Had he a servant with him always when he came?—Yes.

What was the name of the servant?—John Nutter.



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Had he ever any other servant when you were there?—No.

Had he any other before?—Yes, Thomas Waller, years before I was there.

You say Nutter always came with him there?—Yes.

Now, did you ever hear Nutter say any thing to scold Mr. Marsden?—It was not there, it was at Belle Hill that I heard him say he had scolded him, when he did not get to his bed-room.

Did you hear John Nutter say that he had to go into Marsden's room to get him to go to bed?—Yes, I heard him say that he had to scold him to make him go to bed.

Did you hear John Nutter say that he had to scold Mr. Marsden to keep him quiet?—No; but he had to scold Mr. Marsden at that time to get him to go to bed.

Have you seen Thomas Waller here?—No.

Cross-examined by Mr. POLLOCK.—What are you now?—A labourer.

What were you at Mr. Lister's at Giggleswick?—I used to look to the cows.

Were you an in-door servant?—No, Sir, only at times.

What times?—I sometimes assisted in waiting.

You left Mr. Lister, did you not?—Not till he went to reside at Giggleswick, when he left Belle Hill.

Where did you go to then?—To Giggleswick.

Did you go into another service?—Yes, at one time.

Who to?—To Mr. Wood.

How long?—At the end of the year. I was there two years, and that was at the end of the latter year.

Did you dismiss yourself?—Yes.

Were you turned away?—No.

Re-examined by Mr. BROUGHAM.—How long was you in that service?—I was there two years, and left at the end of the latter year.

Mr. Fraser, the short-hand writer, verified also the transcript of his notes of the evidence of William Dawes, as taken on the trial of the issue, at York.

This was read by the clerk, as follows:—

*William Dawes* sworn. Examined by Mr. ALDERSON.—Where do you live?—At Manchester.

Are you a master painter there?—Yes.

Do you remember, in 1796, being an apprentice to Hutton, a painter in Lancaster?—Yes.

Was Hutton employed in painting Hornby Castle?—Yes; he was.

Do you remember working there with him?—Very well.

How long altogether, from time to time, may you have worked with Hutton, at Hornby Castle?—From 1796, to 1810.

Was it most years?—I cannot speak as to that, but at different times, during that interval.

Do you remember seeing Mr. Marsden during the time you were working there?—Yes; frequently.

Did you receive any directions as to what your conduct towards him should be, or how you were to conduct yourself to him?—No; I never did.

Do you remember his coming into the room when you were at work?—Frequently.

Did you take any notice of him?—I did.

Do you remember Mr. Wright coming in at any time whilst he was in the room?—I do.

Whilst you were at work?—Yes.

Was Mr. Marsden in the room, or who came first?—Mr. Marsden was in the room.

What did Wright say to Mr. Marsden, when he came, when you were at work?—He said, “Mr. Marsden, go to your own room, Sir.”

In what way did he say it?—Not in a very commanding way, but it was in a commanding way.

Did Mr. Marsden obey it?—He did.

Did Mr. Marsden obey it immediately?—Yes, he did.

Did he say any thing in answer?—Not a word.

Has that happened more than once, that you heard him command him to go to his own room?—I can recollect more than once—three or four times in the course of the time I was with him.

Did Mr. Marsden always obey him?—Always.

Can you form any judgment, as far as you observed, whether Wright had any authority over Mr. Marsden?—I always thought that he had.

Have you ever talked to Mr. Marsden?—Yes; I have spoken to him.

Could you judge from his answers, whether he was a person of quick understanding?—I believe he was a man of very weak mind.

Do you judge so from the answers he gave you?—Yes.

Was he a person easily alarmed?—Very easily indeed.

Have you ever seen him afraid of a little dog?—I have.

Have you ever assisted him on these occasions?—I have.

In what way?—I was going from the Castle to my dinner, and there was a small dog at the door which barked at Mr. Marsden, and he screamed very much, I protected him, he walked very quickly up to the Castle, and he thanked me.

Had the dog attempted to bite him when he screamed?—No, Sir.

Mr. POLLOCK.—I have nothing to ask you; you may go.

#### SEVENTH DAY.

The examination of William Whittam, as taken at York, was then verified by Mr. Fraser, the short-hand writer, and read as follows:—

*Mr. William Whittam, sworn.—Examined by Mr. BROUGHAM.—What are you?—A shopkeeper at Ingleton.*

Was you in the service of Mr. Marsden in 1806?—Yes, for three years, at Hornby Castle.

In what capacity were you?—I was butler, and attended upon Marsden's person; I was constantly in that capacity.

Where did you see him last?—I never spoke to him after 1819.

What was your opinion of his capacity?—He was a very weak man.

How did he pass his time?—He passed his time in fiddling and playing upon a barrel organ, and talking to himself.

What tunes did he play?—He played only one tune upon the violin, and that was Dainty Davie.

Did he play it all through?—No; he only played the first of it.





Had he more than one fiddle?—He had a large one and two small ones; he put the large fiddle on two chairs, and tied it up with flannel; he used also to varnish his fiddles with flour and water.

Was Wright in the house all the time you were there?—Yes, generally.

Was Mr. Marsden the master at Hornby Castle?—No; Mr. Wright was the only master there.

Did Mr. Marsden treat Wright as if Wright was his servant?—No such thing.

Then how was it between them?—Mr. Wright always appeared to be master of Mr. Marsden, as well as of all the servants.

At dinner, when dinner was upon the table, would they wait for Mr. Marsden always?—No; they sat down.

Did they begin eating before he came?—Yes.

When he came afterwards did you hear Wright say any thing?—Yes; he would ask him where he had been, and what he had been busy with; sometimes Mr. Marsden would tell where he had been, such as with Mr. Procter at Hornby, and sometimes a-walking below the Castle.

What did he do when he gave no account of himself?—He looked as though he was frightened,—as though he had not power to speak to him, and was frightened.

Can you recollect upon any of those occasions the sort of words Wright used to him?—Yes.

What did he say?—He would ask him where he had been, and what he had been about; he would have told him, and he would have said it was a strange thing, as he had nothing to do, he could not get in at meal times and come down.

In what sort of tone of voice did Wright say those things to him?—Not in a kind manner, but in a rude manner, and as a master.

Do you remember any instance when a note was brought to the Castle for Mr. Marsden?—Yes.

Who brought it?—Paul Pattison, who kept the Castle Inn at that time.

Was Mr. Wright at home?—He was at Heysham, and Mr. Marsden was at Heysham.

Did you deliver the note?—Yes.

What room did you take it to?—To Mr. Marsden, who was in the library.

Did you tell him who had brought it?—No, Sir, I did not know who it came from.

Did you give it to Mr. Marsden?—Yes; and soon afterwards Mr. Marsden brought me the note broken open, and told me I must take the note back, as Mr. Wright was not at home.

He said “there is the note, Mr. Wright is not at home.” Did he say any thing else as to the note?—He said he did not know any thing about the fishing.

What did you say to that?—I told him he had better take the note, and if he was not able to write an answer, George Smith would write it.

That was Mr. Wright’s clerk, do you mean?—Yes.

What did Mr. Marsden say?—Then he said to me, “fetch George Smith.”

Did you fetch him?—Yes.

Did you leave them together?—Yes.

Was he long there; did you see him come out again?—Yes; George Smith came out again, and went out of the house, and stopped for five minutes; then he came back again to Mr. Marsden in the library, and Mr. Marsden rang the bell again for me to take the note to Pattison to take down to him.

After Smith went out of the house then he came back?—Yes.

His study was out of the house?—Yes.

That was his office?—Yes.

And he came back to Mr. Marsden?—Yes.

And was he in the room with Mr. Marsden?—Yes.

What happened then after some time?—Mr. Marsden rang the bell and gave me the note for Paul Pattison.

Do you recollect, at any time, being at Lancaster when Mr. Marsden met Admiral Tatham?—Yes.

Did you hear any thing about an invitation to dine with him?—Yes.

What was it?—Admiral Tatham gave Mr. Marsden, at Lancaster, an invitation to dine with him—to dine with him at the Judges' lodgings, where Admiral Tatham was at that time.

When you went back to Hornby was Wright there?—No.

But when you was at Lancaster, and Mr. Marsden, was Wright there?—No; he came home about a week after, and Mr. Marsden talked about this invitation to Wright.

Did he go to dinner at the Judges' lodgings?—No.

What happened between him and Wright when he talked to him about it?—He told Mr. Wright of the invitation he had got from Admiral Tatham to the Judges' lodgings, upon which Mr. Wright said, "hold your peace and do not let me hear you mention that any more."

In what way did Wright say that to him?—Quite in a masterful, rude manner.

In what temper was it said?—He seemed to be quite vexed and angry.

In what way did Mr. Marsden take this?—Mr. Marsden seemed to be very much struck down with it, and quite frightened.

Now, you had been with Mr. Marsden when the Admiral gave him this invitation?—Yes.

Did you observe at the time whether Mr. Marsden was pleased or not? He seemed very much pleased indeed, and seemed very kind with the Admiral during the time they were together.

And you say, when you went back to Hornby, Mr. Wright did not come home till about a week after?—Yes.

Did you happen to hear Mr. Marsden mention the invitation frequently, when Mr. Wright was from home?—Yes, very frequently.

To different persons did he mention it?—Yes, to Mr. Wright's family, but never got any answers from them, when he mentioned it.

You told us what Wright said, when it came to Wright's knowledge, did you ever hear Marsden mention it again?—Never.

You say that you were his servant, and attended upon his person and the rooms, what rooms were there?—The library, dressing-room, and bed-room.

Had he a fire made in the library after you went?—Yes.

Did it continue always to be lighted?—No.







What season was it in the year?—It was the spring of the year.

Was it February, March, or April, when this happened?—Yes; the first year I went, there was a coal-fire made in his room; I lighted his fire as he was cold; Mrs. Wright came and found it out; she said she should not have a fire there; she came right into the library to him, and said that I was in the dining-room rubbing up the plate, and as she came into the dining-room, out of the library, she said, “and as for you, you are taking a great deal more liberties in the family than you have any right to do.”

Now, after she had left Mr. Marsden in the library, did he give you any directions?—Mr. Marsden ordered me to take away the fire immediately.

Did you do so?—I did.

Now did Mr. Marsden ever afterwards give you any orders as to the fire?—Yes, at different times.

The same fire in the library?—Yes.

What did he desire you to do?—He wished me to light the fire at different times.

Did you do it?—I told him I durst not do it without I acquainted Mrs. Wright.

Did you do so or not?—Never; without she ordered it.

Now after that did you ever know him complain of the cold?—Yes.

When?—Particularly in the morning when I have been dressing him.

In what way did he complain?—He complained of being cold in his hands.

Did he rub them?—Yes.

Had you ever been in service before with other masters?—Yes.

More than one?—Yes.

And when Mr. Marsden told you to do things, used you to obey him, as you had been accustomed to obey your other masters?—Sometimes I did, and sometimes not.

On what occasion did you not?—If I had happened to be busy doing any thing else, and he had desired me to do so, and told him “I won’t do so and so” if I thought it unnecessary to do it for him, I would not do it.

Did you tell him so?—Yes; many times.

Used you to do what Mr. and Mrs. Wright ordered you to do?—At all times.

Now, they tell me, there was a dog kept at the Castle?—Yes; there were many.

Was there one called Towser?—Yes.

How used Mr. Marsden to be with respect to Towser?—He was very much frightened at Towser.

Did he ever apply to you as to Towser?—Yes, many a time.

What did he say?—He ordered me to shoot him many a time, I told him I durst not do it for fear of Mr. Wright.

Did you say any thing more about the dog and Mr. Wright to Mr. Marsden?—Not, in particular, that I recollect.

What did he say to you when you said that?—He would not say any thing more of it at that time.

Now, as being Mr. Marsden’s body servant, had you any thing to do with shewing the tower?—Yes.

What was that?—I had the liberty of taking company up to see the tower.

Do you recollect of ladies, on any occasion, coming to see it?—Yes.

Was Wright in the house at the time?—Not in the house; he was walking about some where.

After he came home, did any thing pass between you and him as to those ladies seeing the tower?—Yes; he asked me if I had been shewing the tower; I told him I had; he said, “who gave you that authority?” I said, that I understood from Mrs. Wright, that any of Mr. Marsden’s servants might have that liberty to shew the tower, and he said, “I was a liar, you have not come here to be the master, and if you should do it any more, you shall not remain here longer.”

Did he say that you were not to shew the tower without asking leave?—That I was not to shew it without asking leave, and ask the names of the people it was to be shewn to.

Who were those ladies that you had shewn the tower to, that day?—I believe Admiral Tatham’s lady was one, but I did not know her then.

Did you afterwards understand that Admiral Tatham’s lady was one?—Yes.

Now, have you heard Mr. Marsden talk at table, and other times—you have heard him speak?—Very little; discourse but very little.

How have you heard Mr. Wright conduct himself then?—Mr. Wright discoursed with the company, but Mr. Marsden but very little.

Have you ever heard Mr. Wright say any thing to Mr. Marsden in his company when they were alone?—I have heard him say, “You must hold your noise till you can speak sense,” or something of that kind.

Now, when Wright said so what did Marsden do?—He hung down his head, and never spoke any more.

Cross-examined by Mr. POLLOCK.—Did you ever live with any body that kept a violin before?—I do not know that I ever did.

You do not know that it is usual to wrap a fiddle in flannel?—No; I never was with any gentleman that had one before.

You do not know that it was customary to wrap a fiddle in green baize?—It was not green baize; it was only flannel.

You thought that very ridiculous?—I never saw one so wrapped before; I thought it ridiculous.

Did you ever know a fiddle kept in a green baize bag?—Yes.

Did you think that very ridiculous?—No.

What was the difference?—It was so frequently done.

Where would you put a fiddle?—In a case lined with green baize.

But he played very often upon it, did he not?—Yes.

Did he put it in a violin case?—Yes, in the evening he did; in the morning it used to be in the case, and he took it out.

When he was using it in the day he put it upon a chair, in the flannel?—Yes.

In the evening he put it in a case?—He took it out of it in the morning.

Have you any doubt he put it into a case in the evening?—Yes; it might be some time in the night.

Did he get up in the evening?—Sometimes I heard him fiddle in the night; he would get up.

You were there from 1816 to 1819?—Yes.

Do you mean to say that all that time you never heard him play any





thing but 'Dainty Davie?'—No other tune; I heard him again and again at it.

Without finishing the tune once?—I never recollect him finishing the tune.

He used to play the first part over again?—Yes.

Did you not think him a complete fool?—I have described exactly what I thought of him.

Did you think him a complete fool?—I first tell you what I experienced.

Did you or not think him a complete fool? I am now asking your opinion—Did you not think him a complete fool?—A very weak man; not a complete fool, but a weak man.

You were discharged from that place, or did you dismiss yourself?—I dismissed myself.

Will you swear you dismissed yourself, and that you were not dismissed?—I dismissed myself.

Turn towards the Jury; you say you dismissed yourself, what was it for?—For having a few words with Mrs. Wright.

What was it about?—About a drummer and fifer, for playing at the castle.

Who introduced them?—Not me; there were people that came round; I do not know who introduced them.

Did you see them?—And I heard them.

Did you give them any thing to drink or eat?—No.

What were the words? Mrs. Wright was vexed that I had not ordered them to go away from the house.

So you dismissed yourself?—Yes; I did.

Who was the servant before you?—John Nutter.

Who was the servant after you?—I never knew the man.

Do you mean to say that Mr. Marsden was quite incapable of writing an answer?—I never saw him write one at all.

I ask your opinion?—When I never saw a man write how can I say.

You have stated certain things to make other people form an opinion what was your own opinion, was he capable or incapable to write an answer to a note?—I do not know; I never saw him write, so I cannot say whether he was or not; I tell you my opinion as far as ever I knew of him.

In your own opinion, was Mr. Marsden capable of writing a note or not?—I never saw him write.

By PARK, J.—From his talents and manner, was he capable of writing a note or not in your opinion?—I really do not know, because I never saw him write; he might be able to write a note; I do not know whether he could or not.

By MR. POLLOCK.—In your opinion was he capable of writing a note or not?—I really cannot say.

Do you mean to give no other answer?—No; I could not form an opinion upon the subject.

You cannot form an opinion upon the subject?—No; further than I speak; I cannot form an opinion whether he could write a note or not.

Had he talent enough to learn to write?—I do not know.

Do you think he could write?—I do not know whether he was able to write or not.

Do you think he could write.—I do not know.

Do you believe that he could write?—I do not know.

What is your belief?—I never saw him write, and cannot say whether he could or not.

Then you mean to say you have no belief on the subject?—No; further than I have said.

Have you any belief on the subject or not?—As far as I know, I never saw him write, and cannot say whether he could write or not.

I must press you further upon the subject; upon your oath do you believe that he could write or not?—How could I say that he could write, when I never saw him write.

PARK, J.—The jury will judge whether it is a satisfactory answer or not.

Now in what year was it that Admiral Tatham gave this invitation to Mr. Marsden to dinner?—I think it was in 1817, but I am not certain of it.

Was Admiral Tatham staying at the judges' lodgings, at Lancaster?—Yes, I understood him so.

How long was he to stop there, did he say?—He only said he should be glad to see him at the judges' lodgings, to dine, the first opportunity.

Did you see Admiral Tatham at Lancaster at all?—Yes, at the King's Arms.

Whereabouts was it that you saw him?—At the door.

Was Mr. Marsden's carriage at the door?—George Smith and me was at the door, and Mr. Marsden and Mr. Procter were standing at the door; they were getting into the carriage; they were discoursing; the carriage had been waiting for him, and had been for some time.

Mr. Procter was there?—Yes.

Was that the Rev. Mr. Procter, of Hornby?—It is Mr. Procter of Hornby; I never knew his name at that time.

Was he much at Mr. Marsden's?—I have seen him there frequently.

Did he do the duty at Hornby?—When I was there first, the chapel was down.

How long was it down?—I cannot say.

Was it open two years when you were there?—I do not recollect how long.

Will you say one year?—I do not recollect how long.

By PARK, J.—Was Mr. Procter going home with him in his carriage?—Yes.

By MR. POLLOCK.—Could Mr. Marsden read?—I never heard him read in my life.

Perhaps you could form a judgment whether he could or not?—I cannot form any idea whatever of it, because I never heard him.

Then for any thing you believe, you do not believe he could read?—I have no belief upon the subject, as I never heard him.

Have you any belief upon the subject?—I cannot say whether he could read or not, as I never heard him read.

I ask your belief?—I cannot say whether he could or not.

You have no belief upon the subject?—I have not heard him read, therefore I cannot say.

By PARK, J.—Have you seen him with any thing to read, such as the newspaper?—Sometimes, but he was not holding it as if it was to read; he took the paper sometimes up, and turning it over so that it appeared to me he could not read.

By MR. POLLOCK.—Did you ever see him with a book in his hand?—Yes; at chapel I have seen him with a book in his hand.

Did you ever see him at chapel with a prayer book in his hand?—Yes; open.

Did he ever read the responses?—I never sat near him so as to hear what he said.

But you saw him with a book open before him?—Yes.







How far was Mr. Marsden's pew from the servants' pew?—I do not know how it is now.

How near did you sit to him; did you sit as near to him as the Jury?—No.

As near as to his Lordship?—Mr. Marsden sat in the gallery, and I sat in the chancel.

As you have seen him apparently with a book before him, could you form a judgment as to whether he were able to read or not?—He might be able to read, or he might not for any thing I know.

Was he such a fool in your opinion as to take up a book and appear to read, if he could not read? I do not know; but he had a book in his hand in chapel; and he had the book before him, but I do not know whether he could read or not, because I never heard him.

Who took your examination?—It was taken at Lancaster.

But who took it?—The Commissioners at Lancaster.

Who has examined you since that?—Nobody; I never was examined since.

By no one?—By no one since I was at Lancaster.

Who had seen you before you went to Lancaster?—Mr. Higgin; the first I saw was Mr. Pearson's clerk, and then Mr. Higgin.

What is Mr. Pearson?—He is there.

Is he an attorney at Kirkby Lonsdale?—Yes.

Do you mean to say you never were examined, since you were examined before the commissioners?—Never.

How long is that ago?—Nearly two years.

And from that moment you have never seen any one as to this cause?—I saw the clerk who gave me the subpoena.

Was the examination read over to you?—No; not till I came to York; the examination was read over to me.

What was it?—The examination that took place at Lancaster.

Since you were examined by the commissioners no question has been put to you?—None whatever.

Nothing has been done except reading over the answers you gave to the commissioners?—Nothing else.

Who read the examination to you that took place before the commissioners?—I did not know the man.

Where was it?—At Acomb.

Whose house was it?—I do not know.

Who took you there?—I went there.

Who took you there?—I was sent there.

Who sent for you?—I do not know it was that man.

Is he in York?—I do not know.

Was it Mr. Bush?—No; it was not him.

Was it a private house?—Yes.

Was any one going with you?—There were other people that I did not know, that went with me.

Did you go with total strangers?—Yes.

Can you name any person that took you there?—No, I cannot.

Can you name any person that was there when you got there?—No, I cannot; I did not know them.

Was it Admiral Tatham's house?—It might or might not, but I do not know.

Upon your oath do not you know that was Admiral Tatham's house?—I do not know; for there was the mother of his wife sitting there, by the fire-side.

Did you ever see Admiral Tatham at Acomb?—Yes; but not at this time.

Did you ever see him there at any other time?—No; I never saw him there that I know of.

Was you ever there but that one time?—No; I am sure of it.

Did you ever see Admiral Tatham there?—I have seen him go up there near the public-house, where his witnesses were assembled.

Those you call his company?—I only called them his company, as they were come upon that business.

How often was that expression told you?—Never but that time.

How long is that ago?—Four or five days.

A day or two before the trial?—Sometime before the trial.

Was there any other read over to the others?—I do not know.

Did you attend to any other?—No; far from it, I wished to know none but my own.

You have not the slightest notion who read it?—No.

Did you sleep there?—No; far from that.

Where did you sleep?—At the White Horse at York; I lived at the White Horse, but I slept at private lodgings at Acomb.

Pray, did you ever take a journey with Mr. Marsden?—Yes.

Where to?—To Liverpool.

Where else?—Once to Mr. Lister's at Gargrave.

How did you travel?—Mrs. Wright and Mrs. Brancker were with us when we went to Liverpool.

Did you ever go to Chester?—No, Sir.

Ever to Cheshire?—No.

Did you ever go with Mr. Marsden to Gargrave by himself?—Yes; as far as Settle, and then Mr. Lister met us.

And then did he go on to the family of Lister by himself?—No; he went afterwards.

Did you go with him?—No; I went along with him.

Why do not you say so; had you gone to Gargrave?—That was the only time I was along with him.

Did he ever go without you?—No.

How long were you absent when you went to Liverpool with Mr. Marsden?—I went with him when he went to Liverpool.

That is not the question; but how long were you absent from Hornby?—I cannot positively say.

About how long?—I do not know what length of time.

Cannot you say about how long it was?—It might have been a fortnight.

Re-examined by Mr. BROUGHAM.—Who was with Mr. Marsden and you?—Mr. and Mrs. Wright, and Mrs. Brancker.

Who was Mrs. Brancker?—The daughter of Mr. Wright.

You have been asked about Acomb; were there not a number of other witnesses in the cause as well as yourself?—Yes.

And there were beds furnished for you?—Yes, there were a vast many of them.





You sat at the White Horse ; do you know where the witnesses on the other side are ?—Not particularly, I do not.

They do not live at Acomb?—No, I never knew particularly where they were ; I do not know whether they were at Accom or not.

Do you know whether they are at the Black Swan?—I do not know particularly.

You say you never saw Mr. Marsden write ?—I never did.

But he rang the bell and gave you a note in answer to the letter that Paul Patinson brought ?—Yes.

Was George Smith with him at the time he gave you that letter ?—George Smith had been with him before he rang the bell to give me the answer.

PARK, J.—It is wasting time in repeating this.

MR. BROUGHAM.—It is only to recall what I was going to ask him about.

Does George Smith know whether Mr. Marsden could write or not ?—I never heard him say whether he could or not.

Have you seen George Smith here since the trial commenced ?—No.

MR. POLLOCK.—It is stated already that he is not here.

PARK, J.—Yes, it is admitted and what more do you want.

ATTORNEY GENERAL.—I hope we will have equal justice.

MR. BROUGHAM.—I venture to join in the hope of my learned friend.

ATTORNEY GENERAL.—I think I see more impatience to serve their clients than the other side, but I do not think your Lordship means it.

PARK, J.—As long as God pleases to give me my powers, I know that justice is better maintained when there can be regularity of conduct kept up, and when you are Judges you will do the same.

ATTORNEY GENERAL.—This person has stated that he did not know what Mr. Marsden is able to do. We want to shew that George Smith was more likely to know, what he was likely to be able to do than this witness.

PARK, J.—I think almost upon your examination, in chief, that the inference arises which you wish to raise ; but whether it is believed or not is another thing.

MR. BROUGHAM.—I hope so.

PARK, J.—You have no right to hope about it, Mr. Brougham ; if there is any respect for judicial station, I really hope that I am not to be insulted when I speak from the bench.

By MR. BROUGHAM.—You say that Mrs. Wright was angry with you because a drummer and fifer came to the Castle, and you did not turn them away ?—Yes.

Did Mr. Marsden, your master, find fault with you ?—No, he did not.

When Mrs. Wright found fault with you, it was upon that that you dismissed yourself ?—Yes.

Why did that make you go ?—I went the day following or the day after ; I would rather go than stop.

Why ?—(No answer.)

MR. POLLOCK.—I object to his reason for going, that is not evidence.

MR. BROUGHAM.—That is evidence ; he being represented as a turned off servant ; I submit to your lordship that I have a clear and indisputable right to ask, upon re-examination, the cause and motive of his quitting his service.

PARK, J.—Well ; put your question.

My question is, what made you go away?—I told Mrs. Wright I would rather go than stop, and she said I might.

Why did you tell her that?—Because I wished not to stop any longer, and she said I might go.

Did you mention to Mr. Marsden what had passed as to the drummer fifer?—Yes.

And you went away?—Yes, by myself.

Had he, Mr. Marsden, ever found fault with you at all?—No, never.

By PARK, J.—You said when those ladies came to see the Castle that Marsden was walking about?—No, he was not; he was in his bed-room washing his feet; it was Wright that was walking about.

Did Mr. Marsden walk out frequently?—Yes, my lord.

Whereabouts did he walk, in the garden, or in the fields or lanes about Hornby?—Frequently about the Castle, and into Mr. Procter's; down into Hornby.

You did not go with him?—No.

Did he at that time keep hounds?—I believe he did first when I went to live with him.

*Enoch Knowles* sworn.—Examined by Mr. CRESSWELL.—Did you ever live at Hornby?—Yes.

When did you first live at Hornby?—I do not recollect the date; I went there in 1806.

How old were you at that time?—Sixteen or seventeen.

What business were you brought up to?—A joiner and carpenter.

Was your father a carpenter before you?—Yes.

At Hornby?—At Hornby Castle.

How long did you continue to work at Hornby Castle as a joiner?—For twenty-four years.

That would be from 1806 to 1830?—Yes.

Were you in regular employment at the castle?—Yes.

Particularly to the castle, and not joiner to anybody else?—No; particularly to the Castle.

Were you much about all the time?—Yes.

Had you constant opportunities of seeing Mr. Marsden?—Certainly; just as it happened; and particularly when Wright was from home.

What sort of man did Mr. Marsden appear to be?—A very weak minded man.

Were his habits those of a man?—Quite childish.

What were his amusements?—His fiddle particularly.

Did he ever come to you to do jobs for his fiddles, sometimes?—Oh! many times.

What were the sorts of jobs?—Nothing, except for his fiddles, and a door latch; and sometimes a little varnish was wanted for his fiddles, or sometimes altering the bridges.

Did he come freely to your shop?—Sometimes he did come in, and sometimes he walked by two or three times, to see that nobody was near; and he would come and ask, "had any body heard us," and I said "no;" and then he told me what was wanted.

In what manner did he look about?—To see if Mr. Wright was near.

Did you ever learn from him why he was looking about?—Yes; he has







asked me if Mr. Wright was about, and if any one could hear him ; and I said " No ;" and then he told me what was wanted.

Do you remember his ever bringing a piece of wood to make a bridge for his fiddle ?—Yes.

What sort of wood was it ?—A little piece of painted deal to make a fiddle bridge. I told him it would not answer, as the strings would cut into it ; that it was too soft.

Did he bring you any other piece of wood ?—He told me it was London wood, and it would make the best of bridges. I said it was too soft, and it would not do.

Did you propose to use any other wood ?—No ; I told him they were generally made of beech or hard wood.

What said he to that ?—He said there was nothing so good as London wood.

Did he tell you how he wanted it made ?—No.

Did he give you any directions about the height it was to be made ?—No. He brought me one to alter once, and he said I was to saw an inch off it. I said that was too much, and I said the eighth part would be enough. He asked me how much that was. I shewed it him, and he said that would do. I accommodated him, and it suited him.

Did you make him a bridge ?—Yes ; I repaired it.

Did you ever make him a new one ?—Yes.

Did you often see him walking thereabouts ?—Yes ; many times.

Ever with Mr. Wright ?—I never saw him with him ; I never remember any one keeping company with him.

How did he walk about ?—Sometimes quick and sometimes slow ; he used to talk about his hobby, the chapel, and would notice that.

Did he ever talk to himself ?—Yes ; regularly to himself.

Did he ever give any directions about your work ?—No ; never.

Who gave you all orders about your work ?—Mr. Wright.

How did Mr. Wright conduct himself towards Mr. Marsden ?—He was very masterly over him.

How did Marsden behave ?—He used to walk away.—Wright told him to go about his business many times.

Who told him that ?—Mr. Wright.

Did he go ?—Yes, instantly.

Do you remember, on one occasion in particular, repairing the floor between the dining-room and the passage ?—Yes, very well.

Was Mr. Wright there ?—Yes.

Did Marsden come near ?—He did.

Did Wright say anything to him ?—Yes. he told him " to get away, we wanted nothing with him."

What did Marsden do then ?—He walked right away.

Had you a brother who worked with you there ?—I had.

What was his name ?—William.

Do you remember Mr. Marsden coming to the workshop, when you were there, to ask about hiding him there ?—I remember Marsden coming and asking me if we could hide him, so that Wright might not catch him there ; I told him there was a little door that he might go out at, if Wright came in ; he laughed, and seemed well pleased.

Do you remember once some person getting some stones out of the mill wear, at the castle ?—Yes.

Was Wright there?—Yes.

Did Marsden come?—Yes, he came to look on, and stood at the side, and Wright ordered him to go away, otherwise he would be thrown into the Wenning.

Did Marsden go away?—Yes, he immediately went away.

Had Mr. Wright a house at Heysham?—Yes, he had; I assisted in building it.

When was that?—I do not recollect the year.

About when was it?—It might be eighteen years since, as near as I can recollect.

About 1816?—Yes.

Did you work at it when building?—Yes.

Did he and his family go there in the summer?—Regularly.

For how long?—For ten or twelve years.

How long in summer did they stay there?—For three or four weeks; I cannot say which.

Did Marsden go with them?—Regularly; they took him with them.

Has Mr. Marsden ever asked you any questions about returning to Hornby?—He has; he began to be tired, and wished to be back to Hornby, and asked me if there had ever been anything said about returning; I said “No, I did not hear anything being said about it;” he said “I wish to be back again to Hornby.”

Do you remember at any time Marsden speaking to you about a boat?—Yes.

Was he anxious to have a boat?—Yes; there was some wood cut out for a boat, but it was never made.

Did you ever say anything about the boat being promised to him?—Yes, he wanted to know when it would be done, and I said I should ask Mr. Wright; he said “No, I must not ask Wright.”

Did he often come to you about the boat?—Yes, many a time.

What used you to say?—I used to put him off and say “I would ask Mr. Wright.”

Had you ever any order to put him bye.—No.

Did you begin upon it?—No.

Did Marsden ever talk to you about the name of it?—Yes, he asked me if Minerva would not be a proper name for it.

Did you go through the castle from time to time to see if any thing were to be done?—Yes, Wright told me that I was to go, inside and outside, two or three times a week, to see what was wanted.

Among other places did you go into Marsden's bed-room and dressing-room?—Many times.

How was his room fitted up?—It was about three yards long, painted, and there were some fur skins and some lumber in his dressing-room.

How was his bed-room furnished?—There was a little writing-desk, and three or four chairs. and paper, was in the bed-room.

Was it the best room in the house?—No.

Who occupied the best room in the house?—Mr. Wright.

There was a new building over the new kitchen?—Yes.

Do you remember George Smith being there?—Very well.

Had you ever seen him meet Mr. Marsden when he was walking about?—Yes; many times.

How did he conduct himself towards him?—George Smith used to walk





by him in the heat of day, and he never made any obeisance to him.

What do you mean by that?—He never touched his hat.

Do you remember being in Wright's study, or counting-house, at the Castle?—Yes; many times.

When George Smith was there?—Yes.

Were any papers lying upon the desk?—Yes; undoubtedly. I was there once when Wright sent for Smith, to get Marsden to come in, and he came and he ordered him to take a seat, and put his name to a paper—to sign a paper and he did so.

Was any think said about what the paper was?—No; not a word.

Did Marsden set his name to it?—Yes; and then he walked out.

Did he make any enquiry about it?—No; not at all.

Was Mr. Bleasdale much at the Castle?—A great deal.

Did he keep company much with Marsden?—No; I never saw them walk together.

Whom was he principally with?—Mr. Wright.

Do you remember the talk about altering the Castle?—Very well. I assisted Mr. Wright in staking it out.

Did you never hear Wright say how it was to be altered?—Yes. He would set out the stakes in proper dimensions.

Was any thing said of the sort of building?—Yes; it was to be an ashlar front, with small spires.

Did Mr. Wright ever mention any part which Marsden took in directing it?—No.

Did Marsden ever give you any directions in staking out and measuring it?—No.

Did he ever take any interest in what was going on about it?—Never at all.

How long did this take about altering the Castle, and this measuring, and planning, and so on?—A good while; I cannot say how that was. It might be six weeks, or longer.

During that time, was Marsden in the habit of coming to your shop?—Yes, regularly.

Did he talk to you about other things, as well as about his fiddles and bridges?—Yes, regularly; but never about the Castle, nor any thing else.

By GURNEY, B.—Were any alterations made by his directions?—No, my lord.

By Mr. CRESSWELL.—Do you remember the new rectory house being built?—Yes; in Tatham; I did the carpenter's work.

When was that built; was it two or three days before Marsden died?—It was never finished. It was a great many years in hand, but never finished yet.

Who had the living at that time, when you were building that rectory?—John Marsden Wright.

And you did the carpenter's work?—Yes.

How far had you gone on with the building before John Marsden died?—It was covered in, and the windows made, but never finished.

There was a new house built at the rectory at Tatham?—Yes.

And you remember the spring when Marsden died, your going up there? Yes; it was Wright that invited us up. I remember once, in the spring, that Marsden died, I went with Wright, and John Wright—and Wright invited John Marsden, and he came and stood in front of the building, and

he said to Marsden, "you must give these men something to drink, give them five shillings:" he pulled out some money; there were some shillings; he was long in doing it; but Wright went and took it out of the purse, and he gave Marsden the purse back again, after giving the men five shillings.

That was the spring that Marsden died, was it?—Yes.

What time in the year was it that Marsden died?—On the 1st of July, 1826.

Was the house still unfinished when he died?—Yes; it is not finished yet.

Has the work at that house been continued since Marsden's death?—No.

Do you remember Roger Chester?—Yes, very well. He was footman at the Castle several years.

Have you ever heard Marsden, at the Castle, ringing his bell, when you were with Chester?—Many times.

What used Chester to say upon those occasions?—If he were lazy he would say to me: "he might ring on as he pleased; I will go when I please; he cannot want anything particular;" he had Mr. Wright to attend.

Did he ever say any thing about him, using any expression about him?—I cannot say as to that.

Have you ever seen him neglect Marsden's bell?—Many times; he used to attend Wright; he went on tugging with it, but he never attended to him.

After Marsden's death you assisted in laying out the corpse?—Yes.

I must not hear what was said, but I believe you and Mrs. Wright were the last that left the room?—(No answer.)

ATTORNEY-GENERAL.—I object to this.

GURNEY, B.—It may be made evidence hereafter, but at present it is not evidence.

You remember after that, being subpoenaed to go to York?—Very well.

On the part of Admiral Tatham?—Yes.

About that time did you see Mr. Wright?—I did.

And George Smith?—Yes.

Was there any body else with them?—I was subpoenaed when I went to my dinner. When I went back to the shop, Mr. Wright, and George Smith, and Mr. Buttle, came.

What said Wright to you?—He said he had got a capital good job for me—that he had got a new house to build for lawyer Hull, and I should have it, and I was to set sawyers on with the work.

Was it Wright said that, or who was it?—It was Mr. Wright.

Did he say that kindly?—Yes, very kindly.

Did they then go away?—Yes. I spoke to George Smith as to that—(interrupted)---

ATTORNEY-GENERAL.—I object to the question.

Mr. CRESSWELL.—I apprehend that I have a right to ask that, as Mr. Wright was present.

Witness.—I told George Smith to tell Wright that it was not pretended when I was subpoenaed.

Did he tell him in your hearing?—No.

Did you?—Smith afterwards said he had told him, and he sent for me up the next morning.

Did you see Mr. Smith the next morning?—Yes; he was to tell Wright I had been subpoenaed.

Did he come for you?—Yes.

Did you go to Wright?—Yes.







You said you had been subpoenaed, I suppose?—Yes.

And he asked “Will you go?” “Yes,” I said, “I suppose I must.”

And your wife, she is subpoenaed too, I suppose?—I said “yes;” and he then said, “will she go?”—“Yes,” I said. Then he stated, “Do you recollect what was said four years ago, before Marsden died?”—I said “I cannot recollect at present.” He said to me that Marsden was qualified to give instructions as well as any other person. I said I never said so; then he said, you did. I stated that I did not—but he persevered, and said, you did—I said I did not, and never thought so.

Is that all?—Yes.

Did you ever think so?—No, I had no reason.

Did he, in point of fact, give orders for the work?—Never.

Did Wright then dismiss you?—No; George Smith came down for me next morning.

SIR J. SCARLETT.—George Smith is still in Mr. Wright’s service.

Was you dismissed?—No; I went up to Wright to settle with him, as I was desired; I said I suppose you have done with me, then.

You said that to Wright?—No, to George Smith. George Smith settled with me at the Castle; he said “no; it depends upon how you behave at York.”

GURNEY, B.—We cannot hear this conversation.

SIR J. SCARLETT.—Smith is the agent of Wright.

ATTORNEY-GENERAL.—If my learned friend press it, he may have it taken upon your lordship’s notes. I only ask your lordship to make a note of the objection.

GURNEY, B.—I would much rather take the evidence than reject it.

SIR J. SCARLETT.—I will not add any thing more upon a matter of so little importance.

GURNEY, B.—Nothing would give me greater concern, than that this great cause, upon any little point, should hereafter be to be tried again.

Cross-examined by the ATTORNEY-GENERAL.—You were examined at York?—I was.

Did you then tell all you have told to-day?—No.

Did you tell half of it?—No; I was examined at York, by Mr. Higgin.

I ask you whether at that trial you told one half of it, or one third of it?—I only have told the truth.

But not the whole truth?—It was the whole truth I told. I had only a few questions put to me—I had more to tell.

Had you seen Mr. Marsden since: did you ever make Mr. Marsden a bit of wood to stop his mouth?—I did; I made a piece of wood to stop his mouth.

That you remember telling at York—Yes; I do.

What was that for?—He rubbed his finger in this way, (demonstrating it) with his mouth, and I asked him what he wanted; I understood it was for his mouth; I understood it was for where he lost a tooth or two.

Did you make him a piece of wood to stop a tooth?—Yes.

How large?—Half an inch.

Had he any teeth of that size?—I never measured them.

When did you go to Hornby Castle?—I was there from 1806, till the year 1830.

During that time, you had seen Mr. Marsden talking to himself?—Many times.

Walking sometimes fast, and sometimes slow?—No doubt.

Used he to walk out at all seasons of the year ?—Yes.

Hot and cold ?—Yes.

Wet and dry ?—No ; I do not say that.

Was it chiefly in fine weather you found him out ?—To be sure.

Where was he walking out ?—Chiefly in the field called the Garths.

Any where else ?—Yes.

Where ?—In the street, in the plantations, and along the dykes.

Walking any where about ?—Yes.

Did he walk sometimes quick and sometimes slow, in those places ?—Yes ; without a doubt.

On all occasions, your expression is, he always regularly talked to himself ?—I do not say always.

You said, he regularly talked to himself ?—Very likely it was.

Is it true ?—I dare say it is.

Is it true ?—Yes ; it is.

In the course of that twenty-four, or twenty-five years, you must have seen him hundreds and hundreds of times ?—No doubt.

And always in the same way ?—Apparently to me.

You never heard what he said to himself ?—I never took notice in that respect.

Was it loud enough for you to hear if you had taken notice ?—No ; it was not, to hear what he said.

How far have you ever seen him walking about from Hornby Castle ?—Only about home.

Have you ever seen him as far as Mr. Procter's, the clergyman ?—I have.

How near was Mr. Procter's dwelling-house ?—Two hundred yards from the Castle, it might be.

What were you doing when you used to see him walking about ?—I was upon my business ; I was going backwards end forwards, when I saw him.

You have no doubt you have seen him many hundreds of times ?—Yes, many times ; he was a man we took no notice of.

You saw him ?—Without a doubt.

Have you seen him once a week in this way. ?—No doubt.

Several times a week ?—I took no notice ; I made no memorandum of these things. I answer as well as I can.

Do not be afraid, Mr. Knowles ?—I am not at all ; I wish every one would speak the truth as I do.

I cordially join with you in that. Have you seen him several times a week in this way ?—Without a doubt.

You mentioned about a bridge for a violin ?—Yes.

And he spoke of London wood ?—Yes, he did.

Did he ask you what you made the bridges of ?—No ; he brought me a piece of deal, and I said it was too soft.

Did he ask you what you made your bridges of ?—I cannot say he did.

Did you not say, at York, that he did ?—I might possibly say so ; I do not keep these things in my mind.

How long is it since you were at York ?—It is nearly four years.

I think you were working at the Castle down to the time you received a subpoena to go to York ?—I did.

When you got to York, you saw Mr. Higgin ?—Yes.

Did he take down your examination ?—Yes ; he did.

Well, you told him, did you not, about the London work ?—I dare say I did—very likely I did.





I ask you the fact?—I told him at York; I gave the evidence there, as I was examined upon.

He could not tell you what you knew, without you told him what you knew?—Yes; I told him; I dare say it was one of the questions that was asked me.

How could Mr. Higgin know it?—I told him.

You told Mr. Higgin?—Yes.

Was there a gardener of the name of Rigg there?—There was, and a very good servant too.

Was he a witness at York?—He was.

Is he alive or dead?—He is alive in Lancaster and well.

He was a very good servant?—Yes; he was turned away from the Castle when he went back; he came away and was with me several days.

By GURNEY, B.—Was it after the trial at York?—Yes.

By the ATTORNEY-GENERAL.—Did Rigg sleep in the Castle?—No; he slept with his family in Hornby.

When did you first know that Rigg was going to York as a witness?—I cannot say exactly to the hour.

I do not ask you the hour?—I cannot say the time.

Did you know a week before you went?—No; it might be three or four days; I did not know I was going till I was subpoenaed to go there; I gave it to Mr. Higgin, at Lancaster, alone.

You had no notion you were wanted as a witness till you were subpoenaed? No doubt but I had.

How long had you that notion?—I cannot say.

You must give me some notion of the time?—I cannot say the time.

How long was it; a month?—It might be a month, or two, or three.

You must be a little more particular than two or three months before you went?—I saw Mr. Higgin at Lancaster before I was subpoenaed.

Did you see Mr. Higgin some months before you went to York?—I did.

Was it from him you learned that you were to be a witness?—Yes.

Now, I must press upon you that; how long was that before you went to York?—I cannot say how long it was, but I told him I would have nothing to do with it, so long as I was in their employ; nor I had not.

I must beg to ask you, how long was it before the trial at York, that you had that conversation with Mr. Higgin?—I cannot say.

Was it a year?—No; I do not think it was.

Was it more than six months?—I cannot say the time; I saw him before.

All that passed between you was, that you would have nothing to say to it till you were out of Wright's employ?—I did not give any evidence at all; I said I would give no evidence while I was under their employ; I would have no concern in giving evidence, when I was under their employ; he asked me questions.

What questions did he ask you?—In regard to Mr. Marsden?

Am I to understand, that you would say no one word till you were out of their employ?—I did.

Did you answer a single question to Mr. Higgin at that time?—I told him I would have nothing to do with it; I did not give any evidence at all, nor did he particularly ask me.

Did you answer any particular question?—In conversation I may have done so.

Did you answer any question to Mr. Higgin?—I did.

Did you tell him how long you had been at Hornby Castle?—I cannot say I did; I do not believe I did; I was not many minutes; I only just saw him; I had been down to Lancaster upon some business.

Did you ever see Admiral Tatham?—I believe I did once at the Castle Inn window.

In the lower room?—No.

Where was it?—Above stairs.

What was he doing?—He was dining.

How could you see him in the room?—He was opposite to the window; he was standing at the window.

Talking to any body?—I do not know who was in the room.

Was anybody below?—The window was not up.

It was not open?—No; I did not know he was Admiral Tatham till I was told; I never saw him before.

Where did you see Mr. Higgin?—At his office at Lancaster; he wrote to me.

What about?—About this,—he wanted to see me.

Some months before the trial at York?—I cannot say.

Was it on that occasion you saw him? were you in Higgin's office some months before the trial at York?—I cannot say the time.

I think you said it might be six months or it might be eight?—I cannot say.

The trial at York was in the Spring?—It was.

Were you at Higgins' before Christmas?—I cannot say, as I made no memorandum; I was there.

I must trouble you to tell me whether that was before or after Christmas?—I cannot say; it might be after, or it might be before.

It was rather odd your being at Mr. Higgin's?—I was at Lancaster; it was the only time I ever was at Mr. Higgin's.

It was the only time you were ever at Higgin's, at that time?—Yes.

How often have you been there since; I was there to-day.

How often since?—Once, I think.

Not twice?—Not before to-day or yesterday.

Have you actually not been there between the York trial and yesterday? I say I have been once before I came down on this occasion.

Where did you receive the message that Higgin wanted you before the trial at York; were you at Mr. Higgin's once before or after Christmas? I cannot say where I received the message.

Was it a note or a letter?—No; I got no note.

Who delivered you the message?—I cannot say.

Who went with you to Mr. Higgin's?—I went by myself.

Will you swear that any one gave you a message?—I did not know how it came; I got no note, but I was there.

Will you swear that any one gave you a message?—I think they did,—not a doubt that they did, but I cannot say who it was at that time.

Will you swear that any one brought you a message to bring you to Higgin's?—I cannot swear to that.

Will you swear you did not go of your own accord?—Yes.







You say you had no note?—No.

Do you recollect who gave you the message?—No.

Nor where it was given?—No.

Nor when it was given?—I cannot say ; it has been a good deal talked about, and a great deal more.

Do you know who brought you the message?—No ; I cannot recollect who it was now.

Nor where?—No.

Nor when?—No.

But you acknowledge you were at Higgin's office?—Yes.

Will you swear that any body brought you a message?—I cannot say, but I was there.

Did Mr. Higgin know you were once a servant at Hornby Castle?—Without a doubt of it.

Did he tell you to tell Wright that you had been at his office?—No.

SIR JAMES SCARLETT.—He does not seem as if he did.

Did you go back to Wright at Hornby?—Without a doubt.

Did you tell him you had been at Higgin's?—No.

ATTORNEY-GENERAL.—I do not want to be drawn into any particular comment.

SIR JAMES SCARLETT.—Your own manner is a comment ; that is an imputation upon him.

Was Rigg ever at Higgin's?—I cannot say.

Will you swear that he never was?—I will not swear about it, as I do not know whether he was or was not.

How long were you at Higgin's?—A few minutes ; it might be a quarter of an hour ; I cannot say.

A few minutes or a quarter of an hour?—Very likely it might.

Where did you sleep at Hornby?—At home.

How were you paid?—Eighteen shillings a week.

You never told Mr. Wright that you had been at Higgins' office?—No.

GURNEY, B.—He said that already, that he did not.

At York, did you ever mention the name of Smith at all?—No ; I do not know that I did.

Are you not sure that you did not?—I did not.

Are you not certain that you never mentioned George Smith's name at York?—I cannot think that I did.

Do not you know that you did?—No.

You mentioned something about the river Wenning ; about Marsden being ordered out of the way?—Yes.

Was there not a tackle using then in getting stones out of the river?—Without a doubt.

And they were heaving up stones?—Yes.

Did not Wright tell Marsden to get out of the way of the danger of it?—There was a foot-path at the foot of the bank that Marsden was standing on looking at us—forty or fifty yards off, looking at us ; he never came near the blocks.

Where were you?—At the blocks assisting in the work.

Were you forty or fifty yards off from him?—Yes, I was attending the blocks.

Was Wright forty or fifty yards off from you also?—No, he was by me ;

he told him to go away about his business, or he would be thrown into the Wenning.

How far was he from you at this time?—Forty or fifty yards from where the blocks stood.

Were you at the Castle when any company came to stay?—I may have been so; I do not recollect; I make no memorandums of these things; I was a long time there; I cannot say what passed.

That is no answer; were you there when any company came?—Without a doubt I may have been so. I had nothing to do with them; I attended to my business; no doubt of it, and I was respected as a workman when I was there.

What was your father's name?—Henry Knowles; he worked there long before I was there.

And your brother was also Henry Knowles?—Yes, that was his name, and he was there also.

After the trial at York, you never worked there at all?—No, I never did at all.

What was the last job you did there?—I cannot say, I did not take that observation; it was not likely I should.

All that you took notice of was Mr. Marsden?—No, I did not take any notice of him, except when he wanted me for his little jobs.

Do you mean to say, on other occasions, you did not take notice of him?—He was a man we thought not of, as to business.

Re-examined by Mr. CRESSWELL.—You have been asked as to what you stated at York?—Yes.

Did you state at York that Marsden was in the habit of coming to you about his fiddle?—Yes.

ATTORNEY-GENERAL.—My friend is not entitled to lead him.

Mr. CRESSWELL.—I beg pardon of my learned friend, the Attorney-General of the county palatine; he was the first that transgressed in that way, as he asked the witness “did you state one half of what you state here, or one quarter, at York,” and I only ask as to that.

ATTORNEY-GENERAL.—I have no objection to hear what he stated at York, and what was done at York.

GURNEY, B.—Perhaps you will take it from Mr. Fraser's notes.

ATTORNEY-GENERAL.—I have no objection.

Sir JAMES SCARLETT.—I do not think that this witness has discredited himself at all, so that we should do so.

GURNEY, B.—I do not say that he does so; he is asked more at one time than another, and it is owing to the questions put to him.

*Witness.*—I could now answer a good deal more, that is the truth, I was a long time there.

ATTORNEY-GENERAL.—If my friend wants to know what he stated at York, I will take it. I have no objection to take it from Mr. Fraser's notes.

Mr. CRESSWELL.—We will have it in another way.

Can you tell me what you mentioned to-day that you did not mention at York?—Yes.

What have you mentioned to-day that you did not mention at York?—I do not think I mentioned about those different things that were asked me to day.





Can you mention the particulars?—I can tell you if you ask me as to any one circumstance in particular.

You told the other gentleman you were not asked one half the questions at York that you were asked here?—No, I said many things to-day that I did not mention at York.

By the ATTORNEY-GENERAL.—All about George Smith, for instance?—Yes, and I never mentioned any thing about Mrs. Wright asking me, nor Mr. Wright, as to the new building, nor about Lawyer Hull's, nor about sending for me in the morning.

By Mr. CRESSWELL.—To the best of your recollection, did you mention the other matters about Mr. Marsden at York?---I cannot say whether I did or not.

Did you answer there all the questions put to you?---To be sure I did.

You have been asked whether you did not say something at York about making a piece of wood for his mouth, how was that?---He came to me, and said he wanted a piece of wood made, and he rubbed about his mouth; he had lost some teeth from the front of his mouth. I conceived it was his teeth; and I made a piece of wood, and he seemed well pleased with it.

You have been asked about going to Mr. Higgin; you said you had heard that Higgin wished to see you?—I heard of it, and I gave him a call accordingly, when I was there.

Can you say whether there was any particular message?—I never had any note.

In consequence of hearing that Mr. Higgin wanted to see you, did you call upon him?—Yes.

And you told him you would give no evidence while in service at the Castle?—Yes; neither did I.

As soon as you received the subpoena, did you communicate at the Castle that you had been subpoenaed for York?—I did; I told George Smith, you worked at the Castle for twenty-four years and upwards?—Yes.

You received your wages from Wright or Smith?—From George Smith.

You were asked about Marsden talking to himself, and the number of times you saw him; did you take notice particularly when you saw him, unless he came to you?—No, I never did.

What do you mean by the word regularly talking to himself?—It was a regular way for him to talk to himself, sometimes walking quick, and sometimes slow, which I stated as walking about.

Do you mean by that, talking regularly?—(Interrupted.)

ATTORNEY-GENERAL.—The witness has told you.

What do you mean by regularly?—He came regularly two, or three, or four, times a week, as regularly as the time.

By Sir JAMES SCARLETT.—Your brother's name is William?—Yes.

*William Knowles*, sworn. Examined by Sir JAMES SCARLETT.—Where do you live?—At Preston.

For how long?—Twenty years.

Are you a joiner?—Yes.

When did you first see Mr. Higgin?---I believe it would be about five years ago.

Perhaps you went to York?---Yes.

Perhaps you saw him there?---Yes.

And perhaps you have seen him since, here?---Yes.

Are you the elder brother of the last witness?---Yes.

Did you occasionally work at Hornby Castle?---Yes.

In what way were you employed?---As a joiner and carpenter.

Did you work at particular jobs, or by the year?---By the day, in general, but not always; occasionally, jobs.

How many years, off and on, were you in the habit of working there?---Fourteen years.

When did you first begin; your father had worked there regularly?---Yes.

What year did you first begin; about what time; how old were you?---I believe I was seventeen years of age.

How old are you now?---Forty-nine.

Had you an opportunity of seeing Mr. Marsden there?---I had, at different times.

Was there a workshop on the premises?---Yes.

Were you chiefly employed at the workshop?---In general.

Did he sometimes come to the workshop; did he sometimes come to you? Yes, to look at us.

Did he ever give you directions?---Never.

Have you ever known him come there when Wright was there?---Yes.

What has Wright done?---Mr. Marsden has been in at different times when Wright came down; Wright ordered him to go away, and said, "we will have no person here but what can work."

Did that happen more than once?---Yes, more than once.

Have you ever known Marsden come there?---Yes.

Hear my question; did he endeavour to avoid Wright, when Wright came?---Yes.

How was that?---He came and looked round about the shop to see if Wright was in, and, if he was not in, he came and stopped and looked at us working.

In what way did he appear to amuse himself?---He looked at the workshop, and was knocking with his stick, and humming and talking to himself.

Did he talk to the workmen?---Not particularly.

Have you ever hid him that he might escape Wright?---Yes.

How was that?---I shewed him a little back door to go out at from the shop; I said, here you may go out that way, when Wright comes by, without his seeing you.

And has he gone out that way?---Yes.

He has gone that way?---Yes.

Did you see Wright coming?---Yes.

Did you mention it?---Yes; I told him Wright was coming, and he then went right on the opposite side, by that door, so as not to meet Wright.

Did you live in the village yourself?---Yes.

Did he ever ask you to do any jobs for him?---Yes, to repair his fiddle, and make a fiddle bridge.

Well; has he brought his fiddle to you?---He never brought it to me, I used to go for it.

Did you get it?---Yes.

Did he ever come when you had it?---Yes.







Where was it?—At my own house at Hornby.

What was the job he wanted to have done to it?—He let it fall and broke the bridge at one time, and the sound-post was broken down at one time, and I repaired it.

Did he ever want it varnished?—Yes, he did.

Did you repair it?—I repaired the varnishing, and he wanted me to scrape it all over, and I told him it would not answer.

Did he pay you?—He did at one time; he took me out at the door of our house, and he asked me if I would take that.

Take what?—Some money.

What did he give you?—He put his hand into his pocket and gave it into my hand.

What was it?—I believe it was ten shillings.

By GURNEY, B.—What was the fair price for the work done to the fiddle; what would you have charged for it?—I would have charged nothing.

If you had done it for any stranger, what would you have thought it worth?—Under a shilling.

By Sir JAMES SCARLETT.—Do you remember one of the jobs you did about the roof of a house?—Yes.

Where was that?—At Arkholme Moor.

Whose house was that?—It was Mr. Wright's.

Where were you framing the roof?—At the workshop at Hornby Castle.

What distance is Arkholme Moor from Hornby?—Three miles.

Where was the timber taken to make the work?—We worked it at the shop.

Where did it come from?—From Lancaster.

By GURNEY, B.—Was the timber part of the stock of the Castle?—It was upon the Castle premises.

By Sir JAMES SCARLETT.—Was it cut at Hornby?—Yes, it was all cut; it was all sawed up at Hornby.

And by Hornby workmen?—Not by ourselves; we took the job by the piece.

When you were doing that, were you some time about it?—Yes.

Do you remember Marsden coming?—I do.

Did he appear to you to know what you were doing?—I think not.

What happened?—He asked me what it was for, and I told him it was for the roof at Arkholme Moor.

Did he ask you that more than once while you were doing it?—Yes; different days, from the beginning to the end of the work.

Do you remember being there with your brother at any time when you put some oak doors in the dining-room near Wright's study?—Yes.

When you were doing that, did you see Mr. Marsden?—I did not see him there.

Was Wright there?—He was.

What did you hear?—I heard a knock at the door; I was fitting the door in, and Wright asked me who was there; I said, "I believe it is Mr. Marsden."

Well?—Wright said to him "why do not you go your own way," or "by your own road."

To your own road?—I believe the proper words was “go your own way.”

What sort of a voice did he say that in?—In a stern voice.

Did Mr. Marsden come in or go back?—He went away.

During the time that you worked there, during the whole fourteen years, off and on, upon different jobs, had you ever any directions from Marsden to do work about the Castle?—Never any but about the fiddle.

Do you remember Mr. Bleasdale there?—I remember him often.

Have you seen him with Wright?—Often with Wright.

He had a cottage called Wenning Cottage, about two miles from the Castle?—Yes.

Did you do any work there?—Yes.

Where was the work done for that cottage?—We did the whole of the building.

Where were the materials prepared?—At Hornby, at the workshop.

Were there any posts and rails put about the plantation for Bleasdale?—Yes.

Where were those posts and rails prepared?—Chiefly at Hornby.

For how long together were you employed at a time, doing work for Bleasdale's cottage?—Sometimes two or three days in a week; sometimes a week at a time, and a month at a time.

Where did you receive your wages?—At the Castle.

From whom did you receive them?—From George Smith.

Had Mr. Marsden ever any conversation with you about your wages?—Never.

Was he ever present when you were paid?—I never saw him.

From what you saw of Mr. Marsden, what sort of an understanding do you think he had?—I do not believe he was ever able to conduct himself in any kind of a proper manner, or to conduct any business whatever.

Did he appear to have the understanding of a man?—No, Sir.

Not of a man?—No; not in his proper right senses.

Cross-examined by the ATTORNEY-GENERAL.—You thought he was not in his proper senses?—I do not think he was.

Why do you think so?—For if he had, he would never have been ordered about as he was.

You say he paid you ten shillings?—He gave me ten shillings.

You object to the word *paid*?—I did not charge any thing.

How often did you mend his fiddle?—Many times.

How many?—A dozen or more.

He came to you scores of times?—Yes.

And he never paid you a farthing before?—No, nor ever after.

What time of the year was it he gave you the ten shillings?—About 1813.

How many years had you been there then?—I was not regularly there all that time; I was off and on.

GURNEY, B.—He said that already.

ATTORNEY-GENERAL.—I really cannot take down dates, as your lordship does, in such an expeditious manner.

How many times have you been off and on?—I was nearly ten or twelve months in 1812 and 1813.

How long had you been there before he gave you ten shillings?—About twelve months I believe, off and on.





When did you first do any work there ; in what year ; how many years ago was it ?—Thirteen years ago ; or more than that.

How old are you now ?—I am forty-nine.

You were there, up to the time of Marsden's death ?—No.

When did you leave ?—Sixteen years before he died ; I had ceased to work there ; I went over to Preston ; I was two years and two months at Preston where I am now.

By GURNEY, B.—When did you cease to work at Hornby ?—About sixteen years before he died.

How long ago is it since you left off working there ?—It is twenty years this last June since I worked there, I believe.

That was the last time you worked there ?—Yes, I think so.

Sir JAMES SCARLETT.—We will a little derange the order, if your lordship please, as we wish to take the evidence of Lord Stanley, who has an engagement at Liverpool.

GURNEY, B.—Very well.

*Lord Stanley sworn.*—Examined by Mr. STARKIE.—I believe your lordship, in 1812, was candidate for the county of Lancaster ?—Yes ; I was a candidate in that year.

Of course your lordship called upon the different electors and gentry of the county ?—I called upon some of them ; but certainly not generally ; for I had not time for that.

Did your lordship call at Hornby Castle ?—I did.

Whom did your lordship see there ?—Do you mean all the persons I saw there ?

No ; Marsden or Wright ?—I saw both Marsden and Wright.

Whom first ?—The first person who came into the room, as I entered the Castle, was Mr. Wright, and shortly afterwards Mr. Marsden came.

Who appeared to your lordship to be the master, and to have the direction ?—(No answer.)

ATTORNEY-GENERAL.—We had better have what passed, if your lordship please.

By GURNEY, B.—Can you tell us what passed ?—In a general way. I called upon Mr. Marsden for the purpose of soliciting his vote and interest. It had been always given to other members of my family, and I was certainly aware, before I went there, of his intention to give me his vote ; but yet, from the circumstance of being in the neighbourhood, I thought it right to call upon him. I went with the late Mr. Wilson France and Colonel Houghton ; they had been acquainted previously with him ; and through them, I collected what were the intentions of Mr. Marsden. I have said that Mr. Wright came in first, and some general conversation passed between him and Mr. Wilson France, and I was introduced to him, and to Marsden also ; that was the first time I had seen either Wright or Marsden. Shortly after being in the room, Mr. Wright, I believe, suggested to Mr. Marsden whether we should not have some refreshment, and Wright went out to order it, leaving Marsden in the room with us. During that time I addressed Mr. Marsden as the master of the house, the principal person, of course, for his interest. I confess I did not make much way with him ; I got civil answers, very laconic, and very shyly delivered ; it was, in a way that was very courteous, and accompanied with what may

be called gesture, rather than any thing else. When Wright came back again, which was in a short time, the subject was of course continued, and we got on much better. Wright then took the lead completely; he answered for Mr. Marsden when any question was put to him; the answer came from Wright always, with a sort of reference to Mr. Marsden, such as "I am sure Mr. Marsden wishes that all his tenants should give their votes for you, without any expense to your lordship; would you not, Mr. Marsden?" A bow was the answer. In that way the conversation went on for half an hour or three quarters; but having found very little opportunity of speaking of the success of the election, I endeavoured to talk on some other subject, and, having little interest at Hornby Castle, I talked to him upon some other sort of topic, or some general topic, but I soon learnt that Marsden had got very little information even upon that. After Wright came in, it was proposed that we should go upon the roof of the house and see the view; that was proposed by Wright, and Marsden acquiesced; of course we all went up. A good deal of conversation then took place, but Marsden introduced no sort of conversation; it was always introduced by some other person. I am not aware that Mr. Marsden ever attempted to introduce any conversation either on one subject or another.

Did Mr. Marsden, in the business you went upon to Hornby Castle, ever take the lead in the question?—No, never; I said he did not.

How long did your lordship stay there?—About half an hour or something more, or three quarters.

Have you ever seen him since?—I am not certain I ever did; but I have a vague indistinct recollection that I once met him at the Judges' lodgings at dinner; I confess I was surprised to see him.

Was Mr. Marsden a magistrate of the county?—I am not aware he was ever a magistrate of the county; he may have been, but not to my knowledge; I never heard of his acting.

You yourself have acted as foreman of the Grand Jury here?—Yes; I have had that pleasure.

ATTORNEY-GENERAL.—It is already in evidence, and uncontradicted.

By GURNEY, B.—Did your lordship ever see him act as a juryman?—No; I never did.

By Mr. STARKIE.—Has your lordship ever known him in the Grand Jury room?—No; I never saw him.

Cross-examined by the ATTORNEY-GENERAL.—Look at these letters, my lord, if you please (handing them), are they your hand-writing?—I was just going to answer that question; one of those letters is in my hand-writing, the other has only my signature to it.

Sir J. SCARLETT.—We may see them now.

ATTORNEY-GENERAL.—Certainly not. I merely ask if this paper is in Lord Stanley's hand-writing. If I had asked him to refresh his recollection with the contents of it, then my friend might have asked for them; but I do not mean to shew them to him at present.

Sir J. SCARLETT.—I have a right to see them at present.

GURNEY, B.—It is a point that has often occurred, and I have some doubts about it.

Sir J. SCARLETT.—Then Lord Stanley goes away, and then my friend makes these letters evidence, without his being cross-examined upon them.

ATTORNEY-GENERAL.—Then you may object to their being read.







Sir J. SCARLETT.—No; I have a right to ask Lord Stanley to explain it, so as to make it part of his evidence in chief; if not, I would give no further trouble about it.

GURNEY, B.—I rather think not, Sir James. I think I have known instances where it was refused by Lord Tenterden. I can conceive many a case where it is important that a paper proved to be in the hand-writing of a person, is not produced at the time, I recollect instances.

Sir J. SCARLETT.—I do not say anything upon it. May I ask that Lord Stanley should have liberty to read the letter that he says is in his own hand-writing?

ATTORNEY-GENERAL.—Certainly not.

By the ATTORNEY-GENERAL.—You said that one of those was your hand-writing, and the other not?—Yes.

ATTORNEY-GENERAL.—If it be allowed to be read now, that may be an objection at present that my friend should cross-examine upon it; that may be objectionable.

*Witness.*—May I state why I came to write that letter?

Sir J. SCARLETT.—No; I shall hear that by and by, when I shall cross-examine your lordship to it.

This was in the year 1812?—It was.

Did you ever afterwards, except on the occasion you allude to, see Mr. Marsden again at Hornby Castle?—No; with the exception I mentioned, as to seeing him in another place; nor had I ever any other communication whatever with Mr. Marsden, except that I had once a letter from him, which I answered.

You had a letter from him, which you answered?—Yes.

ATTORNEY-GENERAL.—I have no other question to put to your lordship.

Re-examined by Sir J. SCARLETT.—Was that letter put into your hand, the answer you wrote to Marsden to a letter received from him?—Certainly not. That letter which was put into my hand—I believe I may now answer the question?

ATTORNEY-GENERAL.—Certainly not.

One of the letters put into your hand has your signature, and the other is in your hand-writing—was that an answer to Marsden's?—Certainly not.

What has become of that letter you received from Marsden?—I have looked for it—I never found it—I have reason to believe that in all probability it was thrown into the fire; I thought it a matter of little consequence to keep it.

As that letter was destroyed, what was the subject of that letter?

ATTORNEY-GENERAL.—I object to that, as it does not arise out of my cross-examination.

GURNEY, B.—I may do it.

ATTORNEY-GENERAL.—Then your lordship will allow me to put a further question. It was quite open to my friend to ask for this letter.

Sir J. SCARLETT.—If you ask me the reason, I will give it you.

By GURNEY, B.—Does your lordship remember the import or contents of the letter you received from Mr. Marsden?—I fully remember it, as it made a considerable impression upon my mind, as it was a singular request; a request for me to use whatever influence I possessed in the proper quarter, to make application that Wright might be appointed a magistrate of the county. My answer was certainly in the negative, upon the ground I put to Marsden.

GURNEY, B.—I am afraid we can hardly hear your lordship's answer containing your reasons.

Sir J. SCARLETT.—It was a negative, and that is all.

Your lordship can give us some idea of the date of that letter—was it before or after that interview?—After that interview, certainly.

Is Lord Derby Lord-Lieutenant?—Yes, he is Lord-Lieutenant.

Has he the appointment of the magistrates?—No; he has nothing to do with the appointment of the magistracy; it is entirely with the Chancellor of the Duchy.

By Sir J. SCARLETT.—(Through his lordship,) I wish to know whether it was his lordship's previous purpose to support his election, by writing circular letters?—This was the first opportunity I ever stood for the county, and I naturally should have done that on that occasion, as also upon others.

*Mr. William Rawstorne*, sworn. Examined by Mr. ARMSTRONG.—Were you agent for Lord Stanley in 1818; at the time of the election?—Yes.

At that time there was some apprehension of a poll being demanded?—Yes.

Did you suggest the propriety of calling at Hornby Castle to get the first interest for his lordship?—Yes; I called.

Whom did you see?—I saw Mr. Marsden; I applied to him for his interest for Lord Stanley, and the answer was that Mr. Wright was not at home, and, therefore, he could not say any thing to me upon the subject.

Cross-examined by ATTORNEY-GENERAL.—At that time what were Lord Stanley's politics?—they were the same as they are now: they were whiggish.

By Mr. ARMSTRONG.—Was he supported by Marsden?—Always. He had been the whole time supported by Marsden.

*Mr. John Ward* sworn. Examined by Mr. CRESSWELL.—Mr. Ward, you are an organ builder at York?—Yes.

How long have you been in that line?—About thirty years.

Were you ever employed to repair an organ at Hornby Castle?—I was.

How many years ago is that?—It was in 1819 or 1820.

How long were you there?—Three weeks the first time, and a week the second.

Was it a barrel or a finger organ?—Both.

Did you put any barrels into the organ?—Not any new ones; there were four in it—three good, and one was useless, or it had got damaged. They were not new barrels.

You repaired one of the three?—Yes.

Who gave you your order about it?—Mr. Wright.

Did Mr. Marsden come to look on, when you were about it?—He came into the church frequently—or I should say into the chapel.

Were you at the castle then?—No. I was at the inn when I was about it.

Did Marsden ever say any thing to you about the other barrel?—Yes.

The fourth barrel?—Yes. I had orders from Wright to set three. I went over to York and set those three, and after that I came back in the month of March 1820, and brought those three which Wright ordered, and after Marsden had heard them play, he came up to me one day: he brought me a piece of paper containing twelve tunes, and he said "Mr. Ward, I should





like these twelve tunes to be put upon this other barrel—I am so fond of these, I should like to have these twelve tunes put upon it.” I said “very well, you can have them if you think proper, if I can put ten out of the twelve,” “but,” said he “what can I do with Wright—you must manage with him.” I said “I hoped he would not object:” he said “should you ask him for me.” I said “I will if you wish it.” I said “I would ask him.” He asked me when. I said “I am going to dine to-day at your house, and I will ask him”—he said “very well, but don’t let me be there when you ask Wright.” I said I would take care of that. After dinner I asked Wright, and said “I have a favor to ask of you,” (after Marsden had left the table) “what is that,” he said. I said “you must not deny it if you please,” “what is it,” said he; “will you allow Mr. Marsden to have the other barrel set”—the answer was, he was a d——d old fool, has he not tunes enough yet? or “tunes sufficient,” I am not sure which, I said “on my account will you be so kind as let him have it”—Wright then said “what will be the expence?” I said “£10”—“well” he said “let him have it then, the old fool will be satisfied.”

Did you dine there upon that occasion only, or more than that?—Perhaps during the whole time two or three times a week—I dined at the castle.

Upon whose invitation was it?—Upon Wright’s.

Do you remember on one occasion getting into conversation with Marsden at dinner, when Wright said something?—I remember one particular time when Marsden was going to speak to me about some business, but I cannot say what it was?—Wright said “hold your noise, Sir, for Mr. Ward don’t want to hear any of your chat.”

Cross-examined by the ATTORNEY-GENERAL. —I think some part of this is rather new—you were examined at York?—Yes.

Wright said “hold your noise”—that is new?—Yes.

Have you recollected that since you were at York?—No; I recollected it then.

You did not state it at York?—It was not the question in particular.

Is not this new, that he said, “let him have it, and then the old fool will be satisfied;” did you say at York that Wright said, “very well, do it for him?”—I did not there, as I thought it was vulgar to mention it to the Court, but I was advised to say it as he told it to me.

You said at York, his answer was, “very well, do it for him;” but, you now say it was, “let the d——d old fool have it; do it for him?”—I thought it was not allowed in the Court to swear.

Now, that is very odd, for upon another part of your evidence at York, I see that you said, “the d——d old fool has got tunes enough already?”—I might do so; I cannot say.

Did you not in the same conversation, or another, ascribe to Wright, the expression of “a d——d old fool?”—Perhaps I might do so or I might not.

I beg to ask you this—you said to day, that the answer he made at last was, “let him have it, then the d——d old fool will be satisfied?”—That was the words he told me.

Your evidence to-day is, “very well, do it for him;” at York you said, this, “let him have it, and the d——d old fool will be satisfied?”—Yes.

You assign as a reason for not stating it at York, that you did not state it, because you thought it would be vulgar?—Yes.

Was it, “let him have it,” or “let him have it, and then the d——d old fool will be satisfied?”—Yes; “the d——d old fool will be satisfied.”

Is that the expression you used; did you not observe, that you only used “old fool,” and not the “d——d old fool?”—I did not observe your distinction.

Was your only reason for not stating that at York, that it was vulgar to swear in Court?—Those are the correct words.

At York you said, “very well, do it for him; and to-day you said, “let him have it, and then the d——d old fool will be satisfied?”—He said, “the d——d old fool.”

Was your reason for not stating at York, that you thought it wrong to swear in Court?—Perhaps it might.

You told me that that was your reason?—I told you the truth.

Do not put that upon me in that way; every one speaks the truth, there my question is, having given the reason to-day yourself; on your oath I ask you—was your reason for not using that expression to-day, which you did not use at York, was it because you thought it was wrong to swear in Court, and thought it vulgar?—I thought so at that time; that was partly the reason.

What was the other reason?—I have nothing further than I stated; I might have said less there than I say here to-day, but that is the truth that I have said to-day.

Why did you state less then than to-day?—Because I can remember more.

You remembered this expression distinctly at York, as to swearing?—Yes.

What more do you recollect to-day?—I do not know in particular; some of the questions put to me were perhaps more full now than then.

Was not your expression at York, “let him have it, and then the d——d old fool will be satisfied?”—I do not recollect what I stated; I never charged my mind with it, thinking it would never come on again.

You told me that the reason why you stated that to-day, and did not state it at York was, that at York you thought it wrong to use such a vulgar expression there?—It is true that I thought so.

Is that your only reason?—That is so.

Re-examined by Mr. CRESSWELL.—Was Wright in the habit of swearing much?—I only heard him occasionally—perhaps he might.

*Robert Jennings* sworn.—Examined by Mr. STARKIE.—Are you a master mason?—Yes.

Living at Liverpool?—No; at Manchester.

Were you employed in executing any part of the stone-work at Hornby Castle?—Yes.

During how many years were you employed upon the improvements there?—Not a long time there.







By GURNEY, B.—How long were you?—Perhaps half a year or not so much.

By Mr. STARKIE.—Were you engaged in building the large parapet at the Castle?—On the south and east side of the Castle, and the wall.

The garden wall, the turrets, and the gateway, did you do these?—Yes.

Do you recollect when you begun the first work there?—Yes.

When was that?—It is thirty-nine or forty years ago; or it may be thirty-eight.

How long is it ago since the gateway was done; that was the last work I believe?—About seven or eight years.

By GURNEY, B.—Before Marsden's death, do you mean, or seven or eight years ago?—(Recollecting.)—It may be ten years ago.

By Mr. STARKIE.—In executing these different works, from whom did you receive your directions?—From Mr. Wright.

Had you, from first to last, any direction upon any matter of business from Mr. Marsden?—No, Sir.

In your judgment, was he capable of giving directions for such things?—No, he was not.

During the time you have been employed about these works, did you see Marsden from time to time?—Yes, frequently.

He used to come and see you when the work was going on?—Yes.

Did you hear him from time to time make observations, and ask questions about the work?—Very seldom.

Occasionally?—Yes.

What kind of questions were those?—They were very general questions indeed.

Were they the questions of a person who understood them; do you remember any of them; do you recollect taking a model of Hornby chapel?—Yes,

I believe the steeple did not want taking down?—No.

You recollect the stone cornices and the belfry, at the steeple?—Yes.

Had it been a little spoiled through time?—Yes, the cornices were worn, and were not in proportion.

Did you hear Marsden make any observations as to the way in which the repairs had been done to the cornices?—Yes.

Inform the jury what he said?—He came and asked me if we were not going to take down the steeple; I told him not; he said he thought it was dangerous; I said no, he said "yes," and added, "you see the mouldings of different places are fractured, and I think it is by the hanging of the bells," and he thought it should be taken down.

By GURNEY, B.—By the hanging of bells?—Yes; when the bells were put into the steeple; something of that sort I understood him to mean.

How long ago is this?—Nineteen or twenty years ago.

By Mr. STARKIE.—At the time of the rebuilding the chapel?—Yes.

Do you recollect the building of the gateway; did you see Mr. Marsden there then?—Yes.

Did he come down to look at the workmen when that was going on?—Yes; many a time.

Did he give any order or direction about the gateway?—No, Sir.

Did he know there was to be a gateway there?—When we began at

first he asked me what I was going to do there ; I said I was going to build a gateway, and he asked me which way must they go to Hornby chapel, and will you make us a road through the pinfold, and I told him no.

Did you tell him at any time ; you say he inquired what it was to be when you were digging for the gateway ; did you tell him that ?—Yes, many a time.

Do you recollect, Sir, after you had told him, his coming again ?—Yes.

How soon afterwards ?—He came down soon after and asked me what we were going to do ; I told him, and he walked away.

By GURNEY, B.—Did he ask the same question as before ?—Yes.

The same question you had answered ?—Yes.

By Mr. STARKIE.—How often did he do that ?—Many a time ; sometimes in ten minutes, and sometimes in a quarter of an hour, he returned and asked the same question again.

Now, when Mr. Marsden has been with you looking at the workmen going on, has Mr. Wright ever come up to you ?—I only can recollect once ; I think that we were building the gateway ; Marsden was with us, and Wright came down, and Marsden walked away very shortly.

Do you know whether he saw Wright coming ?—I did not take notice ; I was at my work, but when I saw Wright coming I saw him, Marsden, going away.

Were you some time ago employed at Wright's house, at Heysham ?—Yes.

How long is that ago ?—Seventeen or eighteen years ; I cannot say to a year, for we were there more than one year.

Do you recollect being there about offices once ?—Yes.

Was Marsden there at the time ?—Yes.

Was it begun then ?—Yes.

Who was there besides you and Marsden ?—Marsden came down, as he frequently used to do, and a gentleman followed him down, and in ten minutes after they were talking together, and we were just going to leave work.

What were they talking about ?—My coat was lying just beside where they were standing, and I went forward.

Was any thing said about the sun at that time ?—Yes ; this gentleman took out his watch and said, it was such and such a time, by the sun, at Liverpool, and Marsden said, " dear sir, what time, does the sun set, at Liverpool."

What kind of answer did he make ?—He made some answer, but I did not hear what it was—but he smiled, and said something to him.

Have you seen Wright and Marsden together frequently ?—No.

Have you sometimes seen them together ?—Very seldom.

Have you any means of judging whether Marsden were under any control ?—I never saw them together, not three times all the time I was there.

Cross-examined by the ATTORNEY-GENERAL.—When did you last see Mr. Marsden ; how many years ago ?—About a year before he died.

Pray whereabouts is the pinfold—is it near the chapel ?—Yes ; not far from the chapel.

Were you making a road, or what were you doing ?—We were building the gateway.





How did the road go to the chapel—straight?—It went down from the Castle gate to the chapel.

Did it go straight down to the chapel?—No; to the right of that.

Is there a footway from the castle to the chapel?—Yes; through the garden.

What was the road he asked about; was it through the pinfold?—He asked whether we were making a road through the pinfold.

A foot road or a carriage road did he mean?—I understood he meant a foot road.

Could it have been done?—Yes; it might have been through the gardens or so.

Would it have been nearest through the pinfold?—No; I think not.

How much out of the way would it have been to the chapel?—Perhaps a hundred yards by that way.

Do you mean to say positively that it would not have been nearer?—I think not.

Do you take upon yourself to say so?—Yes; I think it would have been further round by the pinfold.

By Sir JAMES SCARLETT.—I ask you whether or not did you refuse to make it according to his order?—Yes.

*Mr. Fraser*, the short-hand writer, was then called upon, to verify the transcript of his notes of the evidence of William Coulston, taken at the trial at York. This being done, the following examination was then read by the clerk.—

*William Coulston* sworn.—Examined by the ATTORNEY-GENERAL.—Did you live at Hornby?—Yes.

You are a tailor, I believe?—Yes, I am.

How many years have you lived at Hornby?—About twenty-two years.

When did you leave it?—Six years ago.

PARK, J.—That makes it twenty-eight years altogether since you first lived there?

ATTORNEY-GENERAL.—Yes, my lord.

Did you carry on your business there?—Yes.

Where were your premises?—On some of Mr. Marsden's property.

Near the castle gate?—Yes.

Had you an opportunity of seeing Mr. Marsden very often?—Frequently.

Did you make his clothes?—Some part of his clothes.

Who used to give you orders for his clothes?—In general Mr. Wright, or the footman.

Did Mr. Marsden sometimes give you orders himself?—He did.

Did you take any notice of them? did you do them?—Not in the least.

Why did you not obey his orders?—His orders were so singular that I could not make him like any other person if I had obeyed them.

Did he often give you such sort of orders?—No, Sir; not many times.

Do you remember some talk of a volunteer regiment being to be raised during the war?—Yes.

To be raised at Hornby?—Yes.

Did Mr. Marsden talk to you about it?—Yes.

Did you learn from him who was to be the captain?—Mr. Wright.

Had you any orders for clothes for the regiment?—Yes; from him.

Were you to make the clothes yourself, or how?—He wished me to get regimentals made, and likewise to get his uniform, that he was to wear himself; I was to get this and make them. He wished me to write to London, to my agent, with instructions as to what form they were to be; I was to write to London, to my agent, to send down the form of the uniform.

Had you an agent in London?—No; I had not, and I told him so.

What said he then?—He was continually fidgeting me as to this after I had told him that I had no agent.

With the same direction he was continually fidgeting you to write to your agent, you mean?—Yes.

Well, what did you do to get rid of him?—After that he was continually fidgeting me, I drew the plan of an uniform out of my own head, merely to satisfy his curiosity.

Did you give him the plan?—I shewed it him.

What did he say then?—He seemed to be highly pleased with it.

As he was satisfied with the plan, what orders did he give you?—He gave me an order to get the whole of the regimentals completed.

For how many men?—The number was not mentioned.

For the whole corps was it?—Yes; for the whole corps.

You did not make them I suppose?—I did not.

Was there any regiment raised?—There was not.

How long did that hobby horse last?—I cannot exactly speak to that.

Was it a week or a day?—Many weeks.

Did you see him many times upon it?—Many times.

Was he in the habit of coming to your house at the Castle gate?—Yes; many times he has been there.

To talk upon that subject?—Yes; upon that subject.

Have you had orders personally from Mr. Wright upon that subject?—Certainly.

Those orders you obeyed?—Yes; just according to his word; I was not to notice his (Marsden's) nonsense, but make them like other people's.

Mr. Wright told you, you was not to notice Marsden's nonsense, but to make them like other people's?—Yes.

In the course of the many years you lived there, and the times you saw him, have you conversed with him on other matters?—Not greatly on other matters.

About such matters as related to yourself?—Yes.

Was his conversation like that of other gentlemen?—He was a very weak man, I judged him to be so, from his conversation.

Did he appear to you to be a man that could manage his own affairs?—By no means.

Not even his own dress?—Not even his own clothes.

Do you remember on one occasion of his coming in to have a button sewed on part of his dress?—I do.

How long is that ago, to the best of your recollection?—About twenty-five years ago.

Had your wife lain in just before that?—Yes.

How long before?—About a fortnight.

Had she come down stairs?—It was the first day she had come down.







Was she in the room when he came in?—Yes; there was no other room but the body place of the house for her to come to.

What time of the year was it?—It was in August, I think.

Was it in the Summer time?—Yes.

Was any body else in the room, when he came, besides your wife?—Yes; there was the nurse.

And the child too?—I cannot say positively, but I rather think the child was there too.

When he came in to have his button sewed on, what did he desire?—He wished me to order this woman out of the house, for he had something to be done.

Did you ask him what?—I told him that my mistress was very poorly, that she was lately confined, and was not fit to be sent out.

Well?—He persisted that she should go, and the other person with her as well.

Did they go into another part of the house?—They went into the back part of the house.

What did he do then?—He ordered me to lock the door.

Did you lock the door?—Yes; I did.

Then what was it he wanted?—He wanted a button put on his small-clothes.

That must have been soon after your coming there, as it was twenty-five years ago?—Yes.

You did not take long about this button I suppose?—Not a long time.

Have you ever observed Mr. Wright and him together?—I have never seen them much together.

Have you ever heard Mr. Wright speak to him?—I have.

In what way have you heard him speak to him?—In a very overbearing way according to my ideas.

Was it in such a way as a servant should speak to a master?—No, Sir, more like a master to a servant, and not scarcely that.

Why do you say, not scarcely that?—(No answer.)

Mr. POLLOCK.—He must not tell.

Would any servant of spirit have resisted it?—(No, answer.)

PARK, J.—No, no.

Witness.—He spoke in an abrupt kind of manner; a master would be sorry to do it.

ATTORNEY-GENERAL.—The greatest part of masters would not suffer themselves to be spoken to in that way.

Have you heard a nurse speak to a child?—Yes, frequently.

Was it in that way?—Yes, it was so.

Do you remember Waller, his servant at that time?—Yes.

Who succeeded Waller?—To the best of my recollection, a man of the name of John Nutter.

Did you ever observe Mr. Marsden betraying any fear of dogs?—Frequently.

What did you observe in that respect?—As he has been passing up and down to the Castle to where I live; that was a frequent walk where he used to walk by himself; there was a quantity of dogs that came there; I have seen him very much intimidated by the sight of the dogs, and by

this means we have frequently seen him in that kind of manner, and I have gone myself to set these creatures away.

Do you remember, once in particular, being in the servants' hall, when you heard Wright say any thing to Marsden?—I do.

On what occasion was it?—That was the same occasion, as that I spoke of his abruptness.

That was an instance of it?—Yes.

Now, mind, I am not going to ask you what Waller said, but do you remember Waller bringing any thing, and putting it in the servants' hall one day?—I do, one morning.

What was in the parcel?—It was a small parcel containing a checked apron as I supposed it to be.

Mr. POLLOCK.—That you supposed it to be.

By PARK, J.—Was it something checked?—Yes; it was so.

By the ATTORNEY-GENERAL.—Do you know where he brought it from?—No.

There was a conversation about it afterwards?—Yes.

PARK, J.—Is it worth while to pursue this; have we not had the checked apron proved by twenty witnesses?

ATTORNEY-GENERAL.—If we had not had it so proved, it would have been denied.

Cross-examined by Mr. POLLOCK.—When was this about the volunteer corps?—I cannot speak to a day.

In what year was it?—I cannot speak to the year; it was twenty-six years ago.

Was it about the time when there were volunteer corps all over the kingdom?—No doubt of it.

You recollect that it was about that time?—It was.

It was when there were volunteer corps establishing all over the country?—It was.

Now you say he begged you to write to London about the form of the uniform, and that he was constantly fidgeting you?—He was continually fidgeting me by inquiring about those regimentals.

Now what was the continual fidgeting?—By calling at my door.

What else?—Taking me from my work, and calling me to him at the door.

Saying what?—When these were to be made, and what form they were to be in.

Did he ever send you to the Castle upon this subject?—No, never; I cannot say that I ever saw him at the Castle on that subject.

Was it only in the street, or at your own door, that he spoke to you about it?—Both.

You said you had not an agent?—Yes.

Did he afterwards tell you to write to one of his own naming?—He said there was a man of the name of Mr. Middleton, and that if I wrote to him he would give me every information.

Do you happen to know that there is, or was, an eminent army clothier at that time,—an eminent army clothier of the name of Middleton in London?—I do not.

Did he tell you that in consequence of your saying that you had no agent?—I suppose he did.





Have you any doubt that he told you this person, Middleton, would give you every information, as you said you had no agent?—Not in the least.

Did he tell you where Middleton lived?—He did not.

Did you ask him?—No, I did not.

You did not attend to him?—No, I did not.

You made no inquiries about Middleton?—Not in the least.

Did he mention Middleton again to you afterwards?—I cannot say that he did.

How often did he tell you to write to your agent?—Never but once.

Did he ever fidget you about writing to your agent more than once?—He did not, about writing to an agent.

Do you mean to represent that after you had once told him that you had not an agent, and that he had mentioned Middleton, that he had forgot he once asked you to write to London, and had mentioned Middleton?—No; I do not understand it.

Did he tell you more than once to write to an agent?—He did not.

*John Camm* sworn. Examined by Mr. ARMSTRONG.—Do you live at Lancaster?—Yes, at the castle hill.

Are you a plasterer?—Yes.

Were you journeyman to Braithwaite, in 1821?—Yes.

Were you employed at Wright's house, at Heysham, at that time?—Yes.

When was it?—In September.

Was Marsden at Wright's house at the time?—Yes, he was.

Were you working in front of the house?—Yes.

Do you remember Marsden coming out and talking in the front of the house, while you were at work?—Yes; I do.

At that time did Wright come out?—He did.

Did he say any thing to Marsden?—He told him to go away.

In what manner?—He said "you have no business here, go into the house, Sir."

Did he obey him?—Yes, he did, he went in immediately.

Did Mr. Wright follow him into the house?—Yes; I believe he did.

Do you know whether, shortly after that, Marsden remained in the house?—He went up stairs I believe.

Why do you believe that?—Because I heard him scraping upon the fiddle.

Who was working along with you at the time?—Richard Watkinson.

Did Wright give any directions as to what you were to do to Mr. Marsden, if he came back again?—He came to Watkinson, and told him if ever Marsden came again, he was to send him away.

Did Marsden come again?—Yes, the day following, and Watkinson told him he must not stay there, and he went away immediately.

Did Marsden hear what you said upon that?—No.

Cross-examined by the ATTORNEY-GENERAL.—What were you doing?—Oiling the front of the house. It was a dullish kind of stone.

Do you know why Marsden was there, at that time?—No, I do not.

*John Battersby*, sworn.—Examined by Sir J. SCARLETT.—Are you a bricklayer?—Yes.

Where do you reside?—At Preston

Were you ever in the employment of a Mr. Roper?—Yes.

Do you remember his ever being employed to build some walls and hot-houses at Hornby Castle?—Yes.

Did you go to do that job?—Yes.

What year was it in?—In 1810.

When you first arrived at Hornby Castle, who was the first person you saw?—Mr. Marsden.

Did you know him before?—I never saw him before.

But you understood that to be Mr. Marsden?—Yes.

Did you go up to him?—Yes; and we said, “we had come from Preston to build a garden wall, if you please, Sir, and hot-houses.”

Go on?—He said nothing about it.

Tell us what he said?—Marsden walked away then; he said he knew nothing about the hot-houses.

And then the gardener came?—Yes; the gardener came to me.

Was Marsden within hearing of what the gardener said?—No.

His gardener said something to you?—Yes.

Did you, in consequence, wait for Mr. Wright?—Yes.

How soon did he come?—In three quarters of an hour Wright came. I said we have been here nearly an hour. I said we spoke to a young gentleman, but he could give us no answer. I pointed to him. Mr. Wright said, “He cannot give you any direction; I will set you to work.”

Then did you begin the work?—Yes; we went round the garden, and he showed the work, and we started to work the next morning.

Mr. Marsden did not interfere about that at all?—No.

Do you remember when you had got up a part of the work, just above the foundation?—Above the base, a course.

Do you remember two gentlemen coming?—Yes.

Was Mr. Wright showing the gentlemen the place?—Yes.

Did Marsden follow behind?—He did.

Where did he place himself?—He got upon the base-course.

That is the course above the foundation?—Yes.

Did Wright see him there?—He turned himself round and saw him there, and said, “What are you doing there; get from that, Sir.” He jumped off, and a piece of brick fell down and he fell upon his knee, against the brick-bat; and he did that as soon as Wright spoke to him.

By GURNEY, B.—What were the words you said Wright said to him—“What are you doing there; get off that wall, Sir?”—Yes.

By Sir J. SCARLETT.—Do not tell us what the workmen said to each other, unless Marsden heard what they said. Did you go at any other time to do any work there?—We went in 1812.

Did you set the flues for the hot-houses?—That was in 1810.

Do you remember being one day in Wright's office, settling the plans about the flues?—Yes.

Was there a plan before Wright?—Yes; he was looking at it, and showing us what was to be done.

Were the other workmen there, or only you?—I was the manager of the job. I was there only.

When you were so engaged, do you remember hearing a knock at the door?—Yes. He said, “Who is that, that is knocking?” “I do not know,” I said. He said, “Go and see;” and I went and opened the door.

Who was it?—It was Mr. Marsden.







What did you say to Wright?—"It is Mr. Marsden," I said. Wright said, "Mr. Marsden, what are you doing here? you have a road out by the front door: you have no business to come by this road." Upon that, he turned and went back again.

And you shut the door?—Yes.

You worked there again, in 1812?—Yes.

What was your job then?—Pointing all the garden walls.

Who gave you directions for that?—Wright.

How long were you there, altogether?—Near seventeen weeks, in 1812.

In 1810, and 1812, did you often see Marsden and Wright together?—Very seldom.

You mentioned one or two instances—do you know any other occasion when you saw Wright's treatment to Marsden?—My labourer did.

Never mind that, did you observe any other occasion, yourself, as to how Wright treated Marsden?—No, I did not.

What sort of a person was Mr. Marsden, in your judgment?—He was a nice man; not very tall, but he was a very nice-looking man.

What sort of understanding had he?—I never had any discourse with him; I paid no attention. Mr. Wright was the man whom we were to look to.

Cross-examined by the ATTORNEY-GENERAL.—Were you there after 1812?—No.

*Richard Watkinson* sworn. Examined by Mr. CRESSWELL.—You are a painter?—I am a labourer, but I served my time to a painter.

Were you serving your time to a painter in June, 1821?—Yes.

You were working at Wright's house, at Heysham?—Yes.

With the witness, Camm?—Yes.

Oiling the house?—Yes.

Was Mr. Marsden there?—Yes.

And Mr. Wright's family?—Yes.

Did Mr. Marsden come to look on?—He came to the foot of my ladder; he came muttering or grumbling, and went on it, and Mr. Wright said, "go away, Sir."

In what tone did Wright speak?—Sharply; he said, "go into the house, Sir."

After he went into the house, did Wright give you any other orders?—Yes, he did; he said, "I say, my man, if he come here again, tell him to go away."

Did he come again the next day?—He did; and I went down off the portico, and said, "please, Sir, you are not to stop here," and he went off immediately—off the Barrow's field, where the house stands on.

What did he do in the field?—He was walking about.

Did Wright come?—Yes, he did, in half an hour after that.

Was Marsden still walking there?—He was at the top of the Barrow's.

Did Wright say anything?—Yes; he said, "I say, young chap, does Marsden come to bother you, does he?"—I said, "no, Sir, he never did bother us."

Did he appear afraid of Wright when he spoke to Marsden?—I cannot say—I cannot tell; but he went away immediately when Mr. Wright spoke to him the day before.

(There was no cross-examination of this witness.)

*Mrs. Agnes Hogarth* sworn. Examined by Mr. STARKIE.—Were you formerly in service at Hornby Castle?—Yes.

When did you first go there?—I cannot speak to the exact time, but it was in 1797 or 1798—for four years, as housemaid.

Had the maid-servants a wardrobe in their bed-chamber?—Yes, they had.

Had you a shelf in that wardrobe for your clothes?—Yes.

Did you ever miss any check aprons from your shelf?—Frequently.

Where have you found your apron at any time?—I found it in a window in the lobby leading to our room.

Have you ever found any in other places?—I have.

Where?—I placed one on the napkin-press, which stood at the foot of the hall stairs; it was taken from that place in the evening, and I found it there again the next morning.

Do you know whether Mr. Marsden had anything to do with any of those?—I believe he had. When he has gone into the dining-room I have gone into his bed-room, and found a check apron under his pillow.

Is there a way through the drawing-room into the maids' room?—There was before the drawing-room was furnished.

Do you recollect the door of that drawing-room being fastened, so that you could not get that way through the maids' room?—Yes.

By GURNEY, B.—Was it generally fastened?—It was ordered to be kept fastened. It was always fastened, but only when I went through to clean it.

By Mr. STARKIE.—Did Marsden ever go that way?—He could not get that way.

But did he ever try to go that way?—I know he has.

By GURNEY, B.—You have seen him try the door?—Yes.

By Mr. STARKIE.—What did he do then when he could not get that way?—He ran up stairs and down, and seemed to be very uneasy.

Which way did he go then, when he found he could not go that way?—Backwards and forwards into his own room.

Was there anything done to quiet him?—It was then that I placed a check apron at the foot of the hall stairs, upon the napkin-press.

By GURNEY, B.—And you missed it that night, and found it again the next morning?—Yes.

By Mr. STARKIE.—Was Marsden uneasy after he missed that?—No, he was not.

What was Wright's manner to Mr. Marsden?—I have heard him speak rather harsh.

Do you recollect any particular occasions of his speaking harshly?—One morning Mr. Wright was coming out from his breakfast to his study, and he met Mr. Marsden in the hall, and he said, "why do you keep the breakfast so long in waiting for you?"

Who appeared to you to be the master, Mr. Marsden or Mr. Wright?—Mr. Wright.

Do you know whether Marsden was afraid of him?—He appeared to be so.

Cross-examined by the ATTORNEY-GENERAL.—You were not at York?—Yes.

What four years were you at Hornby Castle?—From 1797 or 1798.

How old were you then?—About twenty.

When you went there?—Yes; when I went.





What time of the year did you go?—In May 1797 or 1798.

Was there a good deal of company sometimes in the house?—Yes.

Mr. Bolland,—do you remember him there?—I do not.

Mr. Lushington?—I do not remember him.

How long is it since you went away from there, is it thirty years?—It is thirty-two or thirty-three years ago.

You came away in 1801 or 1802?—I am not certain.

Was there a great deal of company sometimes in the house?—Yes, there was.

Every year?—Yes.

Was there a good deal of company at all seasons of the year, now and then?—Yes, mostly in the summer.

How many gentlemen have you known sleep there of a night?—Eight or ten.

Who were they?—Mr. Dowbiggin, and the Barrows, and Mr. Clarkson.

Was he a clergyman?—Yes.

By GURNEY, B.—There were two Clarksons, clergymen, do you remember them both?—No.

By the ATTORNEY-GENERAL.—Any body else?—The neighbouring gentlemen, Mr. Gillow, and the Worswicks.

Gillow is a cabinet-maker here?—Yes.

But although he was a cabinet-maker, he kept his carriage, did he?—Not at that time.

But shortly after?—I do not know.

Do you remember any body else being there?—Mr. Robert Hesketh, of Wennington, and Thomas Carus, of Whittington Hall.

Was that the uncle of Mr. Carus Wilson?—I cannot say.

Who else?—I do not recollect them now, but there were others.

A great many?—Yes, a good many, besides these.

I suppose they were not all there together, but some at one time and some at another?—Yes, large parties we had.

Was Miss Tatham at that time seen much by you?—She slept in the maid-servants' room.

Was she then a member of the family, was she there all the time you were there?—She was.

Now you say that Mr. Wright spoke harshly?—He did.

I beg to ask you, did you ever hear Wright speak otherwise than harshly to any body?—Yes.

To whom?—To his own family, his wife.

Did you ever hear him speak harshly to his own wife?—No; I cannot recollect any instance of it that I ever heard him speak harshly to her.

His children at that time were merely infants?—Yes.

How old was the eldest at that time?—Perhaps three or four years old.

With the exception of those, did not Mr. Wright speak sharply and abruptly to every body?—Never to me.

To every body else but to you and Wrs. Wright?—No, I do not think he did.

Did he speak to any body else harshly but to Marsden?—Yes, to other servants he could speak harshly.

Was not his general manner habitually very abrupt?—He was a sharp spoken man, but not to speak harshly to every one.

Was his general manner the other way?—He was not very mild.

Was his general manner harsh or mild?—It was not mild, nor yet can I say it was harsh.

You say that the way through the drawing-room was always fastened?—Yes.

But you saw Mr. Marsden once try to go that way?—Yes.

What time of the day was it?—In the evening; I cannot say the exact time.

Was it after dinner?—Yes, it was.

What time of the year was it?—He had a candle.

Was it in the hunting or shooting season at all?—That I do not know.

Was there company at dinner that day?—There had been company that day.

Was Marsden going to bed?—No, he was not; supper was not ordered.

Was he endeavouring to go through the door that was regularly shut? He was.

And which, according to the general establishment of the house, was regularly kept shut?—It was at that time.

Did you think he was stupid or tipsy in going that way?—He might have got wine, as there had been company in the house.

Was not that so?—I thought so from his appearance.

And manner?—Yes.

By GURNEY, B.—Did he sometimes take a glass too much?—I thought when there was company he took a glass too much—I imagined so.

By the ATTORNEY-GENERAL.—And from his manner and behaviour that night, do you not think it was so?—Yes.

GURNEY, B.—She has said so.

Re-examined by Mr. STARKIE.—At that time the room was newly furnished, and therefore kept closed?—Yes.

How long had it been furnished?—A year or two, and it was after that it was to be kept closed.

You had visitors at the Castle often?—Yes.

What was Wright's manner to them—rough, or civil?—Very civil.

To the gentlemen who visited them?—Yes.

Miss Tatham was there at the time you were there?—Yes.

What kind of a person was she, as to mind and understanding?—She seemed rather nervous, and weak in body.

ATTORNEY-GENERAL.—I do not know that they can ask the character of mind of every body.

GURNEY, B.—Yes; you introduced her name as being in the house.

ATTORNEY-GENERAL.—It will make the inquiry very extensive.

GURNEY, B.—No; Miss Tatham has been made much use of, as being a nearer relation to them than the admiral. It is necessary to inquire what sort of person she was.

When you speak of her as a weakly body, do you mean as to the mind or body?—I do not think she was one of the strongest mind.

Was she strong or weak in the mind?—Rather weak.

What room did she sleep in?—In the maid-servants' room.

Do you know whether she occasionally assisted any of the servants in family affairs?—I have seen her nurse a little.

*Mary Wilcock* sworn. Examined by Mr. ARMSTRONG.—Did you ever live at Hornby?—Yes.







When did you go there?—In 1821, or 1822. I cannot say exactly.

How long did you stay?—About eighteen months.

In what situation were you?—I went into the scullery at first.

What did you become afterwards?—I remained there for the course of a month, and then went into the kitchen as cook, and remained there about four months, and then I went into the house-maid's place.

Where do you live now?—At Clapham, in Yorkshire. I am Post-mistress there.

By GURNEY, B.—Clapham, near Ingleborough?—Yes, my lord.

By Mr. ARMSTRONG.—At the time you saw Mr. Marsden, what sort of person was he?—At the times I had opportunities of knowing him, he was a very weak sort of gentleman.

What were his amusements?—Playing, or attempting to play, on the violin.

When you went there at first, did you wear a check apron?—I did.

Did Mr. Marsden ever take any notice of that?—Very much.

In what way?—I could not have passed him without his taking hold of it.

Was that the same with the other servants that were so dressed?—I cannot say.

Did you, in consequence of this, cease to wear it?—Yes, I did.

Did the other servants do so too?—I cannot say.

Cross-examined by the ATTORNEY-GENERAL.—How often did he lay hold of that—once, or twice, or fifty times?—I may say, six or seven times, till I gave up wearing them.

By GURNEY, B.—You left it off, as you did not like to have that done?—Yes; I did not, my lord.

*Margaret Anderson* sworn. Examined by Sir J. SCARLETT.—Where do you live now?—At Hareton.

Did you ever live house-maid at Hornby Castle?—Yes.

How many years ago?—Twenty-three or twenty-four years ago.

How long did you stay?—About fifteen months.

Do you remember, on one occasion, Wright and Marsden going to dine at Lancaster?—Yes.

How did they go?—In a chaise.

In a post-chaise?—Yes.

A hired post-chaise?—They hired post-chaises; they did not keep a chaise.

Did the chaise come to the door for them?—Yes.

Where were you when the chaise came to the door?—I was between the door and the dining-room.

Did you see Wright come out?—He came out of the hall into the lobby.

Did Marsden come at that time?—He was up in his bed-room.

Did Wright wait any time for him?—No; he went up stairs to fetch him down; he had got a whip in his hand when he went up to him.

Did you hear him say any thing when he went up?—Yes; he said “he would fetch that d——d old devil out of his room, as he was never ready when the chaise came.”

Did you see him go up to Marsden's room?—Yes.

What did you hear or see then?—He opened the door and said, “come out this moment; who is going to wait for you?” Mr. Marsden came out, and Wright stepped back, and Marsden came down before him, and Wright following him, and cracked the whip after him down stairs into the hall.

Mr. Marsden got before him in coming down ?---Yes.

Did they both pass by you as they came out ?---Yes.

How did Marsden appear at the time ?—He appeared as if he was frightened ; he walked on fast.

Then they went off, did they ?—Yes.

Do you know whether John Nutter followed them on horseback to Lancaster ?—Yes.

You say Nutter went after them on horseback ?—Yes.

Had Nutter been in the bed-room with Marsden when Wright went to fetch him out ?—Yes, he had.

By GURNEY, B.—Was he in the bed-room when Wright came to the door with the whip ?—Yes, my lord, he was.

Did you hear Nutter, after he came back from Lancaster, say anything ; did he talk to you upon the subject ?—The next morning.

Do you remember his saying that it was a great shame for his master to be used in that way ; that he would have shewn Wright the difference, if he had been master of the house ?—Yes, I heard him say so.

Do you recollect once, Mr. Marsden having something the matter with his eyes ?—Yes ; and there was a poultice put to his eyes.

Do you remember any thing said upon that occasion ?—I can remember what Nutter said.

Sir JAMES SCARLETT.—He was asked about that, my lord.

GURNEY, B.—Yes.

What did Nutter say about the poultice ?—That he had been obliged to fetch Wright out to his master, as his master would not let him put the poultice on.

Cross-examined by the ATTORNEY-GENERAL.—Where was it he said that he would fetch that d——d old devil out ?---It was there ; just bye.

Was it to you, in the hall, he said this, when Marsden was in his room ; he did not say it to Marsden ?---No.

Did he say it to you, or to whom ?---I was cleaning the paint ; there was nobody but me ; Mr. Marsden and Nutter were in the room.

Was he talking to himself or talking to you ?---He said so as he went up the stairs.

Re-examined by Sir JAMES SCARLETT.---Did he say so loud ?---Yes, very loud.

Loud enough to be heard in Marsden's room ?---Yes, he might hear him very well.

*Agnes Green*, sworn. Examined by Mr. CRESSWELL.—Was your name Howson before you married ?—Yes.

Did you ever live at Hornby Castle ?—Yes.

When did you go there ; about how long ago ?---In 1821, I went there.

What were you ?—Housemaid.

Who hired you ?—Mrs. Wright.

How long did you live there ?—Three years.

Did you see much of Mr. Marsden ?—Yes ; I saw a good deal of Mr. Marsden.

Where did he principally stay in the house ; what rooms did he principally go to ?—Mostly his bed-room and the library.

Did he amuse himself with the violin ?—Yes.

Had he more than one ?—Yes.





Where did he keep them; in his bed-room, or in the library?—In his bed-room, and some in his library.

In both?—Yes.

Was he much occupied with them?—Yes.

Who managed the house and gave orders to the servants, and those sorts of things?—Mr. and Mrs. Wright.

Did Mr. Marsden ever give any orders as the master of a house usually does?—No.

Was he treated by the servants as the master?—No; Sir.

Did you ever hear Wright say any thing to him; how did Wright treat him?—He did not treat him as the master.

But how did he treat him? (no answer—The witness became very ill and had to sit down; it being thought she was about to faint, a glass of water was procured for her. The proceedings, of course, ceased, till she was recovered, and then the examination was resumed.)

Was Mr. Marsden ever late in coming to breakfast?—Yes.

Have you ever heard Wright speak to him on those occasions?—Yes, I heard him speak very sharply to him; he asked him why he had been so late.

How did he say that, sharply or mildly?—Sharply.

What do you mean by sharply?—Scoldingly.

Did you ever hear him swear at him?—Yes.

Once, or more than once?—I cannot say more than once.

Was that for being late?—No.

What was that for?—He had got rather fresh, and had got up stairs and had fastened the room door upon himself; I went up to turn the bed down, and the door was fast, and I did not say any thing; I went up half an hour after again, and I listened at the door and heard something, and I came down and told Mrs. Wright; she went up stairs and knocked at the door.

Did he answer when she knocked?—No; she then went and fetched Mr. Wright; he came up-stairs and broke the door open, and insisted upon it that he should never lock the door upon himself again, and swore at him.

Have you ever been near when Marsden and Wright were going out in the carriage?—Yes.

Have you known Mr. Marsden late in getting ready for the carriage?—Yes.

Have you ever heard Wright speak to him on such occasions?—Yes; he spoke sharply to him, but any more I cannot say.

How did Mr. Wright's children treat him?—Not very well.

In what way did they use to treat him?—They laughed and made game of him.

By GURNEY, B.—Have you seen that in the presence of Mr. Wright?—Yes.

Cross-examined by the ATTORNEY-GENERAL.—How long is it since you went away—how many years ago?—I left in 1824.

How long did you live there?—Three years.

What was your name when you went there?—Howson.

Where have you lived since?—In many places since I have been.

Where do you come from now?—From Mewith

Where is that?—It is quite up in the Fells.

Re-examined by Mr. CRESSWELL.—You have been married some years?—Yes.

*Mr. Richard Bibby* sworn.—Examined by Mr. STARKIE.—Where do you live?—In Cumberland, when at home.

What age are you?—Sixty-six.

Are you in any business?—I was in the excise many years ago, but I now live on my own property.

Had you an uncle at Lancaster, named Stanley Turner, who kept the Grapes public house?—Yes.

Were you at your uncle's house?—Yes.

You went to Lancaster School?—Yes; to the Quakers' School, not the Free School.

At busy times did you assist in your uncle's house, serving his guests?—Yes; I was with him nine years, and the latter part of it I went to school. I might be about fourteen years old when I first went.

During the time you were there, did Mr. John Marsden and Mr. Wright come occasionally to the Grapes public-house?—Yes.

That was the house Wright frequented when he came to Lancaster?—Yes, it was.

Now, when they did come together, and when Wright has gone out, did he take Marsden with him?—No; I once heard him tell him to stop in the room when he went into the town.

Did he accordingly stop?—Yes, he did.

Did Marsden remain there more than once?—I never heard him order him but once, but he has been many times left.

How long might Wright be absent when Marsden was left in the house?—Between half an hour and an hour.

During those times where did Mr. Marsden remain?—He remained in the parlour.

Do you know whether he went out of the house on those occasions?—He never went out of the front door; he might at the garden door.

When Wright was away did Marsden occasionally want refreshment?—Yes; he might want a glass of wine, or a glass of ale.

Did he pay for them himself?—Yes; he generally paid.

Was there any difficulty as to counting the change?—He once wanted change for a guinea, but not to pay for any thing; I took the change in half-crowns, shillings, and sixpences. I knew he would be a long time counting it over, and in ten or fifteen minutes he rang the bell, and he said it was not right. I counted it again, and I told him it was right; and I went out of the room, and told my uncle.

Did you come in again?—Yes.

What happened then?—I counted it, and told him it was right a second time.

Was it right?—Yes; it was right.

Did your uncle come in?—

GURNEY, B.—Do not tell us what your uncle said.

*Witness*.—I told him that that silly man would not say it was right.

Mr. STARKIE.—I cannot ask that.

GURNEY, B.—I told you to be sure not to tell what your uncle said, not in the presence of Marsden, and you persist in telling, which hurts the cause you come upon.







Did you yourself go in?—No, I did not.

Did Wright come in when you were there?—No; he came in some time after.

When Wright came was your uncle in the room?—I cannot say whether he was or not.

Was any thing said about the change?—No; I do not know that there was, my uncle pacified him.

GURNEY, B.—You did not hear that; only tell us what you yourself heard.

Did you hear any thing more of it, when your uncle came in?—No; I did not.

Cross-examined by the ATTORNEY-GENERAL.—How long is this ago?—Between 1787 and 1793; I cannot tell to a year.

You say perhaps he might get a glass of wine or ale now and then; has he been half a dozen times at the Grapes?—He might come six or seven times a year; he generally came at the races.

For how many years?.. For six or seven years.

*Mr. George Morris* sworn.---Examined by Mr. ARMSTRONG.---Where do you live now?—At Manchester.

How old are you?—Forty-three.

When you were a boy did your mother keep the White Hart inn in this town?—Yes.

How many years did she live there?—Eight or ten years.

Do you recollect Mr. Wright coming with Mr. Marsden to your mother's house?—Yes; occasionally.

Did you ever hear Wright give your mother any directions about Mr. Marsden?—Yes.

What were they?—That he was going out to take care of Mr. Marsden till he returned, and not to let him go out.

You heard these directions given to your mother?—Yes.

How old were you then?—Twelve or thirteen, perhaps thirteen.

Did your mother give any directions to look after Marsden?—Yes; she desired me to watch him, and I went into the room which Wright had left and remained till Mr. Wright's return.

Do you recollect Mr. Marsden expressing a wish to go out of the room?—He once said he would wish to go out to the stables to look at the horse; he was told he must not, for Wright would be angry.

Did that prevent him going?—Yes; and he then sat down, and did not insist upon it.

How did Wright treat him as far as you saw?—I never saw much more of Wright than his giving those directions; and when he returned, I went out.

How often did this happen?—Two or three times that I was present, and staid in the room to keep him there.

Cross-examined by the ATTORNEY-GENERAL.—My friend has not asked you what you are?—I am an agent and accountant.

At Manchester?—Yes.

Did you ever act as an attorney's clerk at all?—No.

And never assisted any attorney?—Yes; I assisted Mr. Foulkes, of Manchester, at these assizes.

Who is Mr. Foulkes? . . An attorney in Manchester or Salford; he lives at the end of the New Bailey-street.

What is his christian name?—David Dovaston Foulkes.

How often have you assisted him?—I have come to the Assizes at Lancaster, both the present and the last with him.

In what character do you come?—As a friend of his.

You say you are an agent and accountant?—Yes.

Agent for what?—If for a factor, for buying and selling printed goods.

Are you agent for any house at London or Manchester; or anybody?—For you, if you please.

Can you not name any house that you are agent for?—I am an accountant as well.

Are you agent for any body in particular?—Any body generally, that will employ me.

What sort of an accountant's business do you do?—I buy and sell goods, twist or web, or printed goods.

Are those the only goods you act as agent in?—I have bought silks and stuffs.

And thing else?—Not that I recollect.

As an accountant do you mean to wind up bankruptcy estates?—I keep the accounts for Mr. James Hollinrake, who has a patent for copper rollers for printing, or for making copper rollers malleable; he has disposed of that to Patten and Company, and has an allowance.

How often do you go to keep his accounts?—Sometimes several times a quarter; sometimes twice every week.

How many times have you been at Lancaster before those two times?—I have left Lancaster these thirty years.

Have you ever been at the Lancaster Assizes during these thirty years besides this year?—Yes; I was here at the Assizes in 1825.

Did you come to assist Mr. Foulkes in the way of business, or merely as a friend?—I did not know him before; I kept him company and assisted him.

In what he should require of you, or what he was not able to do himself?—I assisted him in instructing counsel, and preparing the briefs.

Getting up the cause; examining witnesses?—No; I did not examine witnesses; I subpoenaed three or four or five witnesses.

Were you ever a witness yourself in Lancaster?—Yes; I was attending thirteen weeks a committee of the House of Commons, in 1825, as a witness.

What was it made you a witness?—From my knowledge as to the railway, as to the conveyance of goods between Manchester and Liverpool.

Were you ever a witness in Lancaster, in Court?—Yes.

When was it?—I do not recollect the year.

Were you a witness here these last assizes?—I was not a witness these last assizes, but I should have been, if required, to prove a service of three subpoenas.

Was that all?—Yes; only to prove that fact.

Were you a witness last assizes?—No.

Did you attend a reference for him?—Yes; before Mr. Martin.

How long have you been here this last time?—I came on the Sunday and returned on the Friday.





When were you first retained as a witness here?—I received my subpoena last Tuesday week.

When were you first examined?—About a week before.

But as to your being a witness here within the last three weeks, has it all come out within the last three weeks?—Yes.

A week before the assizes began?—Yes.

This day three weeks the assizes began, that was the commission week?—(Interrupted.)

GURNEY, B.—Why do you reveal my griefs?

ATTORNEY-GENERAL.—I share them with your lordship.

Witness.—It would be a week before that, that I heard any thing about it.

*Thomas Thexton*, sworn.—Examined by Sir JAMES SCARLETT.—Did you ever live groom at Hornby Castle?—Yes.

How many years?—Seven years.

Do you remember the year you went in?—In 1803 or 1804.

To what time did you continue?—About 1810 or 1811.

Did you afterwards live at the Castle Inn at Hornby?—Yes; after that.

During the time that you lived there for seven years, had Mr. Marsden any horses,—any saddle horses?—He had one.

Did you buy it?—No.

Who bought it?—Mr. Wright.

Was it brought for him to try before it was bought?—No, Sir.

Did Mr. Marsden ever go to the stable to look at his horse?—No, Sir.

Have you been present when Wright has bought horses?—Yes.

And sold horses?—Yes.

Did you ever consult Marsden about it?—No.

Or did Mr. Wright, to your knowledge?—I dare say not; I never heard him consult him.

You were the groom?—Yes.

Did you ever receive any orders from Marsden himself?—No.

Who used to give you orders?—Mr. Wright.

Who hired you to live at Hornby Castle?—Willan hired me in Wright's name.

Have you been present when you heard applications made to Wright for leave to fish and shoot?—No; I cannot say I ever particularly heard that.

You never heard any body apply to Wright for leave to fish?—No.

Was there a good deal of game and trout to be had at the Castle?—A great deal.

More than was wanted for the house?—Yes.

Were you sent out with any of it?—Many times.

Who sent you?—Mr. Wright.

What message did he give you?—He gave Mr. Wright's compliments, if there was no note, and sometimes there was a note; and then when there was not, I was desired to give them, with Mr. Wright's compliments.

To the neighbours all round?—Yes; I went to gentlemen's houses.

Was that done very frequently?—Yes.

Did you come as far as Lancaster with them?—Yes; very often.

Do you remember once being desired by Thomas Waller (Mr. Marsden's servant), to take a note?—Yes.

About a venison feast?—Yes.

Where did you find Marsden?—I found him in his study, sitting by his desk.

Can you read and write?—Yes.

Have you carried notes with Mr. Marsden's direction upon them?—I do not know that ever I did before.

Did you see him direct any note?—I saw him direct that note.

To whom?—To Mr. Bateman, of Halton Park.

Did you see any other paper or note lying beside him when he was directing that?—I did.

Were you standing close by that you could read it?—I was standing close behind his chair.

What was that note lying upon the table?—"Mr. Marsden's compliments to Mr. Bateman; would be glad of his company to dine with him that day," or to that effect.

Do you know Marsden's hand-writing?—Yes.

Was that note you saw lying beside him his hand-writing?—No, Sir.

And he gave you the note to take to Mr. Bateman?—Yes.

And you took it to Mr. Bateman?—Yes; and saw him fold it up and seal it before he gave it me.

You carried notes of invitation out to different people, at different times?—Every venison feast, as they called them, and very often besides.

In whose hand-writing were the directions of the notes generally?—In either George Smith's or Mr. Wright's.

Were they sometimes in Marsden's?—I never recollect any but that one.

Have you known Marsden and Wright going out from the door in a chaise?—Yes.

Was Marsden always ready?—Not always.

When he has not been ready, have you heard Wright say anything?—Yes.

What did he say?—Marsden was in his dressing-room, Wright was at the front door, and I was standing at the door; and when Wright was going out, if Mr. Marsden was not there he would call out "Marsden not ready!" and then Marsden would come down as quick as he could, all in a flutter.

Have you observed that when you brought the carriage from the inn at Hornby for them?—Yes.

It was not when you were living with them?—No.

Was it Marsden's carriage?—Yes.

But post-horses?—Yes.

Did you observe the carriage there?—Yes.

Did you drive then?—Yes.

Have you ever been driving the carriage when Waller was with Mr. Marsden in the carriage?—Yes.

Have you had any directions from Marsden how to drive?—Yes; but he never said much, unless he was tipsy.

We do not ask what he said when he was tipsy; but when Waller and he went together, did Waller treat him as a servant or as his master?—







When they were dining at any time at a gentleman's house, Waller was attentive enough ; I have been waiting sometimes, and used to go and wait upon Mr. Wright ; but when Waller and Marsden were alone, Waller did not seem to be afraid of him.

He was not afraid of Marsden ?—Yes ; that is what I mean.

Were you afraid of him ?—Not at all.

Do you remember some election at Lancaster during the time you were in that neighbourhood ?—Yes.

Was that when you were groom at the Castle ?—Yes ; I was groom at Hornby Castle during the time of the elections.

Who used to canvass the voters in Marsden's interest ?—Mr. Wright.

Did you ever know Mr. Marsden canvass any voter ?—No.

When they went off to Lancaster to vote, how did they go ; who collected them ?—Mr. Wright. There was a public breakfast at Hornby Castle then, so that before they started they all got their breakfasts, and Wright was there, and ordered them off.

How did Marsden go to Lancaster ?—In a post-chaise.

With whom ?—With Wright.

Did you go along with them ?—Yes.

After they had polled, did you bring them back ?—I did not drive them ; Thomas Waller and me were with them on horseback at the same day.

They came back the same day ?—Yes.

What was the name of the horse that was bought for Marsden ?—Daniel.

Did you ever know him ride the horse ?—Yes.

Did you go with him ?—Yes.

Did you make any long ride ?—About three miles.

After you had gone a little way, what happened ?—He pulled the horse up and stopped, and asked me what they called him ; I rode up to him when he stopped ; he asked me what they called the horse, and I said Daniel ; and he stroked the horse upon the neck, and said, " Daniel, I hope you will not behave ill to me ;" and asked me if he was perfectly safe and quiet, and I said he was.

Did he continue to ride at a walking pace ?—No ; he walked perhaps a hundred yards, and afterwards stopped again. I went up to him again ; he said " will he abide tickling ?" and he hit him with the stick ; and I said, yes, he will 'bide any thing of that kind.

A gentle hit ?—The horse did not mind that ; the horse went on then.

How many times was it you rode with him ?—Three or four times.

Did Mr. Wright buy another horse for him after that ?—He bought another horse, but he never rode it.

What sort of horse was it ?—An old horse ; he gave £8. for it ; he bought it of an exciseman, at Hornby.

Was the horse put into condition ?—Yes, it was.

Did Marsden ever see it, to your knowledge ?—Not that I know of.

What became of it ?—It was turned out and sold, but not when I was there.

Marsden never rode it ?—No.

Had Wright any horses of his own ?—Yes.

Had he a carriage and horses ?—He had two that ran in a curricule.

Had he a curricule ?—Yes.

Did he use that curricie?—Yes; a good deal, one while.

Did he drive himself in it?—Yes; sometimes he drove, and sometimes I drove in the curricie.

He used it a great deal?—Yes; a great deal.

Was the curricie there, when you first went?—No; there was neither a curricie nor gig when I first went.

Where did the curricie come from, did you learn?—It came from London. It came, packed up, by a waggon; and I unpacked it myself.

Then Wright made use of it?—Yes.

Did you ever know Marsden in that curricie?—Once he came with Wright to Lancaster in it. I rode after them.

That was the only time that you knew of his being in that curricie?—Yes; the only time.

Was it there when you left the service?—Yes; but it was then made into a gig.

Who used it as a gig?—Mr. Wright.

Cross-examined by the ATTORNEY-GENERAL.—How long ago is it that that note was directed to Mr. Bateman, of Halton Park?—In 1806, or 1807, I cannot say to a year, exactly.

That is the only time you ever saw Mr. Marsden direct a note?—Yes.

Or write notes?—I never saw him write one. I only saw him direct that one.

You are a good scholar, yourself?—No, not a good scholar.

Can you write?—Yes.

Can you read writing?—Yes.

Where did you learn?—At Kirkby Lonsdale and Whittington schools.

I dare say you could write a bit for me: just write your name? (handing a piece of paper and a pen,—The witness writing his name and handing it back.)

Well, that is pretty well. I dare say you can write the day of the month and the year? Write the 30th of August.—(handing it back—The witness then wrote 30th August, Saturday, 1834. This was handed up to the judge, by his lordship's desire.)

What sort of a room is the library?—describe it. Mr. Marsden was then in the library?—I do not know what they called it. It was the room he played in. There was no book-case in it.

And there never was?—Not that I ever saw. It was a place I was very seldom in.

Was Marsden sitting at a table or a desk?—At a desk.

Was he fronting you, as you came in, or was his back towards you?—He was sitting with his side to me.

How far was he from the door?—He was about the middle of the room.

Did you go up behind his chair and read what was on his table?—Yes; I had to stop there till he directed and sealed it.

Did you ever see him write his name before?—No.

Did you ever see him write any thing before?—No.

Never any thing?—No.

Now, be cautious: did you never see him write any thing before, upon any occasion, on your oath?—Upon my oath! I am upon my oath.

Do you mean to say upon your oath that you never saw him write before?—I do.

Then how can you swear, at a single glance, that that was not his handwriting?—I saw it from the direction of the note.



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Re-examined by Sir J. SCARLETT.—Did you see both the copy and the note together?—Yes; they were both upon the table together.

*Robert Cornthwaite*, sworn.—Examined by Mr. CRESSWELL.—Where do you live?—at Hornby.

What are you?—I farm a bit of land, and am a carrier.

Did you ever live in service, at Hornby Castle?—Yes.

In what capacity did you serve in?—I went as farmer.

Any thing else?—After I had been there some time I took the groom's place.

When did you go first?—In 1813.

How long were you there altogether?—Eleven years.

After you had been engaged as groom, did you ever attend at the house?—Yes.

Do you remember ever being in the house when they were bottling wine?—Yes.

Where was that done?—In the servants' hall.

Was Wright there attending to it?—Yes.

Do you remember any person coming to the door?—Yes.

Who was it?—Mr. Marsden.

When he came, did Wright say anything?—Marsden opened the door.

Did Wright say anything?—He said, "Who is it?" I said "It was Mr. Marsden;" and he said, "Go out of the way, cannot you." He ordered me to bolt the door.

Did Marsden go away?—Yes.

Did you bolt the door?—I did.

Was there a joiner's shop near the castle?—Yes.

Belonging to the castle?—Yes.

Did you ever see Marsden go there?—Yes.

Often or seldom?—When I was walking out, I used often to see him that way.

Has Marsden ever asked you about any man being in the joiner's shop, before he went there?—He used to ask, "Was Mr. Wright there?" I said, "Yes;" and he turned himself round and turned towards the village, and did not go to the shop then.

Have you ever seen him look into the shop, before he went in?—I cannot recollect.

Do you remember the time of George the Fourth's coronation?—Yes.

Was there any rejoicing at Hornby?—Yes.

Were there any cannon fired?—Yes.

Was that in the evening?—Yes.

Where were they fired?—In the front of the castle.

Was Mr. Wright there?—Yes.

And his family?—Yes.

Did Mr. Marsden come?—Yes; he came upon the gravel walk towards the cannon.

Did Wright see him?—Yes.

Did he say any thing to him?—He said, "Get away, what are you doing here?"

Did he go back?—Yes, he did.

Where to?—He went into the house and looked through the window.

While you were there, did Marsden ever give orders?—No, not that I know of, except for his candle, or a little shaving water.

Who gave the orders to the servants about the house?—Mr. Wright.

Who was the butler, at the time you were there?—John Nutter, William Whittam, and Roger Chester.

Did you ever assist Nutter to set out the dinner table?—Yes.

Do you remember at any time when you were assisting Nutter to set out the dinner table, Marsden ringing his bell?—Yes.

Did Nutter go to him?—He rang once or twice. I was in the pantry, and Nutter said he would tell Mr. Wright.

Did you go to Wright?—No; Nutter went.

What did Wright do—do you know, of your own knowledge—did you see him?—Yes; I saw him. I cannot tell what was said. I saw him go to Marsden's room. I did not hear what he said.

Did the bell cease to ring?—Yes, it did.

Did you ever drive Marsden out in a gig?—I fetched him from Wennington to Mr. Bleasdale's cottage.

From any other place?—Yes; once from Heysham to Slyne, and back again.

When you were driving him from Wennington, was that through his own property?—Yes.

Did he ever make any remark to you about the property, as he went along?—No.

Did he ever speak to you about any thing?—No; he only knocked the gig bottom with his stick, and said, "She goes very well." That was all that he said.

Do you remember the election, in 1818?—Yes.

For Lancaster?—Yes.

Were there a good many freemen from Hornby, coming over to Lancaster?—Yes; a good few.

Did Marsden go about at any time to get them ready?—No; not that I know of.

Did any body go round, to get them ready for Lancaster?—I cannot say.

Do you remember before they started?—Yes; I was getting ready myself. I went with them.

Did Marsden interfere about getting them ready?—No.

Did you ride with the freemen, and go behind the carriage?—Yes.

Mr. Marsden's carriage came?—Yes.

Was he in it?—Yes; and Mr. Wright and young Wright were in it with him.

Was Mr. Bleasdale much at the castle?—Yes.

Did he associate much with Mr. Marsden, or with Mr. Wright?—With Mr. Wright.

There was no cross-examination of this witness.

*William Warbrick* sworn.—Examined by Mr. STARKIE.—You are a mail coachman?—Yes.

Do you live at Carlisle?—Yes.

Did your father once keep the King's Arms at Hornby?—Yes.

You took care of the post-chaises and horses?—Yes.

Did you drive Wright and Marsden?—Yes.

Do you recollect once going with a chaise up to Hornby Castle?—Yes.

Did you hear Wright say any thing to Waller?—Yes.







What did he say to him?—The front door was open, and Wright was coming out, and he says to Waller, “where is Mr. Marsden gone?” he said, “I do not know, but he has come out of his room;” says Wright, “I see him not, where the devil has the fellow run to?”

Did you afterwards see Mr. Marsden?—Mr. Marsden was behind the chaise, and he began to apologise for being there; Marsden apologised; Wright said, “poh, poh,” and he said, “get in with you.”

In what way did he say it?—Sharply and harshly.

Did you ever drive Marsden alone?—Yes.

Without any one with him?—Yes; except a servant.

Did you ever drive him without a servant or Wright with him?—Never without a servant.

Which was the servant who used to attend him?—Tom Waller.

Do you recollect going with Mr. Marsden when Waller rode upon the box?—No; he was riding the mare behind.

Do you recollect Marsden stopping the chaise?—Yes; half a mile off; we had been to Mr. Eidsforth's; he got out and came into the chaise again by and by; when we got a little further he ordered us to stop again, and he got out again; then we got on a little further, and Waller came galloping up and said, “what does the d——d old fool want now?” I said, “I do not know,” and he let him out; and he then said, “you drive on; do not stop again for him.”

Where was Marsden then?—He was coming up to the door.

Was it said distinctly enough for him to hear?—Yes.

That Mr. Eidsforth's is near Poulton?—Yes; just by the sea shore.

Did you ever know Mr. Marsden want change for gold money?—Yes; he came into our house for change of a guinea, since we went to the Castle Inn. Was change given him?—Yes; for the guinea; he put out the half-crowns, and said he did not like that sort of money, he would rather have shillings; so we gave him shillings; he counted it over three or four times, but could not count it right; we told him it was right; and he put it into his pocket, and got out of the house.

Was that the only time you saw him get change?—No; there was another time.

With half-crowns in it?—There were half-crowns at that time.

Have you known him at any time come back after he had got change?—Yes; within half an hour or an hour.

Has he said any thing about the change?—He said he would have his guinea back, he had no occasion for change.

Has he got his guinea back?—Oh; yes.

You say he gave the half-crowns back again?—Yes.

Had he made any attempt to count it before he gave it back?—Yes.

Had he begun to count it before he said that as to rejecting the half-crowns?—Yes.

Cross-examined by the ATTORNEY-GENERAL.—You said he would reject half-crowns; did you not say before that he rejected the change, and you did not know why?—No.

When was it he got the change for the guinea?—In 1808.

Was that at Hornby, or at where?—In the bar.

Did you never say it was a sovereign he came to have change for?—No; it was always a guinea.

Did you not say it was a sovereign?—No; it was a guinea.

Did you not at York say it was a sovereign?—No; I did not.

Will you swear that?—Yes, I will.

Were guineas very plentiful?—I cannot say they were.

What used people to change in this country then?—There were different sorts of money.

Were there one pound notes very much circulating?—Yes; and provincial notes as well.

At Hornby?—Yes.

And at Lancaster?—Yes.

Were guineas as common as notes then?—No; I cannot say they were.

ATTORNEY-GENERAL.—He called it a sovereign before; I have it in my note, and my comment upon it.

GURNEY, B.—It is of no consequence; he meant a golden guinea that he wanted change for.

*James Richardson*, sworn. Examined by Mr. ARMSTRONG.—Where are you living now?—At Sir Harry Mainwaring's, at Higher Peover, in Cheshire.

Were you ever gamekeeper at Hornby Castle?—Yes.

When did you go there?—About 1802.

How long did you stay there?—Twelve years, within a few weeks.

Who hired you?—Mr. Wright.

Did Mr. Marsden ever give you any orders?—Never.

Do you remember once receiving a message from Nutter that Marsden wished to go a-coursing?—Yes.

Did you afterwards see Mr. Wright?—Yes.

Did you tell him the message Nutter had brought to you?—Yes.

What did Wright say?—He said, "you must attend to me, I am the master."

Did he give you any orders as to what you were to do that day?—Yes, to go a-shooting.

Did you go a-shooting?—Yes.

What kind of a man was Mr. Marsden?—A very timid man.

What was he in point of understanding, in your judgment?—Very weak.

How was he generally employing himself?—Walking about the Castle and the field close to it.

Did he ever talk to you?—Very little; he only asked me about dogs, and what sort they were.

Do you remember some dispute about game; about a gentleman of the name of Parker, who lived at Hornby Hall?—Yes.

Had you directions to look after him, to see whether he sported within the Manor of Hornby?—Yes.

Who gave you those orders?—Mr. Wright.

Did you ever receive any directions about it from Mr. Marsden?—Never.

Had Mr. Wright any allotments on Arkholme Moor?—Yes.

Did you ever hear Mr. Wright say how he got them?—Yes; I heard him say before Mr. Tatham that he had begged them from Mr. Marsden.

That was Mr. Tatham of Cantsfield; he is dead, is he?—Yes.





Was Nutter in the service of Marsden at the time you were there?—Yes.

Did you ever hear Nutter call Mr. Marsden a fool?—Yes.

Cross-examined by the ATTORNEY-GENERAL.—You were examined at York?—Yes.

This, as to the allotment, is new?—But it is true.

Did you tell that at York?—I believe I did not.

Re-examined by Mr. ARMSTRONG?—Were you asked that question at York?—No; I do not believe I was.

*Thomas Gardner Crossfield* sworn.—Examined by Sir JAMES SCARLETT.—Mr. Crossfield, what are you?—I live without troubling myself about doing anything.

Have you some property of your own?—Yes.

In Hornby?—No; at Claughton parish, near Hornby; I live with my tenant.

Were you in the neighbourhood part of your time, ever since you were gamekeeper at Hornby Castle?—I was a gamekeeper for upwards of eight years there.

Do you remember the time when you went there?—I began to shoot for him in 1817, and I began to live at the Castle in 1818, and stopped from Candlemas 1818, for eight years.

Did you sleep in the house?—No.

Where did you sleep?—At my own house.

You only acted as the gamekeeper out of doors?—Yes.

Did you ever receive any orders from Marsden?—Never.

Did he ever converse with you upon the game, or ask you any questions?—He never asked me anything of the sort.

Who used to converse with you, and give you orders about the game?—Mr. Wright.

You were pretty well acquainted with the extent of the estate—the boundaries I suppose?—I cannot say I particularly know the boundaries of the whole estate.

You shot over your own liberties?—Yes.

Do you think Marsden knew the extent of the estate?—No; I do not believe he did.

What makes you think so?—I never had any reason to form any judgment, or know anything about it, as I never saw him five hundred yards from the Castle in my life by himself.

Could you tell whether he went with any body else that you know of, to look over the farmers or the farms?—No; not without Wright, or some attendant.

Have you observed in what way Wright behaved to him?—I have seen that Mr. Wright was master of him.

Do you remember being at the Castle the day when the late King, George the Fourth, was crowned?—Yes.

Was there any firing of cannon that day?—Yes; they had got four brass cannon; there were to be twenty-one shots fired.

Where were they placed?—Upon the grass-plot in front of the Castle.

That is a sort of terrace?—Yes; there is a gravel walk between the Castle and where the cannon were placed.

The grass-plot is at the top of the hill?—Yes.

Did you assist in loading the cannon?—Yes; Mr. Wright loaded them, and I assisted.

Were the family there?—Yes; Mrs. Wright and Mr. Wright also were there; I did not take particular notice of any of the family but Mrs. Wright.

Were the servants there?—Yes.

When you were firing off the cannon was Marsden out at the time?—No; I think they had fired two or three rounds before Marsden came out at the front door; when he got half way across the gravel walk, Mr. Wright spied him and said, “what do you do here, turn away back with you;” and he turned back immediately and went in at the front door.

Did you see him afterwards at the window?—Yes.

Where did he stand?—He was looking through one of the front windows.

Looking through the window at the firing of the cannon?—Yes; towards the cannon.

Did the cannon continue to fire?—Yes, till they had fired twenty-one shots.

Have you observed Mr. Marsden in the neighbourhood of the Castle walking sometimes?—Yes, I have seen him walking.

In what manner did he use to walk?—He always walked in a timid kind of a way; he had mostly a stick.

What did he do with the stick?—I never saw any particular movement he did with his stick; I never noticed that; he would sometimes stop, and then walk on again.

Were you near enough to hear him when he said anything to himself?—I have heard him mutter, but never could hear anything distinct.

Do you remember a servant that lived with him of the name of Roger Chester?—Yes.

Do you remember one day when the servants were at lunch, Roger Chester carrying Mr. Marsden some lunch up stairs?—I remember him telling me that he had done so.

Did you hear the bell ring—Mr. Marsden’s bell?—Yes, I did.

Did Chester go when it rang?—He said he had been taking him his lunch, but his basin was too big; “but I am not going yet.”

Did the bell ring again?—Yes; and he then said, “You d——d old fool, you may ring again, I am not coming yet.”

Did he ring a third time?—We were just set down to dinner in the kitchen, and then he said he should be like to go; he came down back again, and he said, “It is just as I said, his basin is too big, but he must either take that or none; one is like to be master of him, or there would be no living with him.”

“One is like to be master of him, otherwise there would be no living with him?”—Yes those were the words.

Did Chester ever tell you about Marsden giving him a one pound note, and asking him for change?—Yes; he was to get sovereigns for it; he said he must; he said he could get him two half sovereigns for it, and he said, “Oh, that will do; oh, that will do.”

Did he ever go to Claughton church, in your parish?—Yes.

Did he often go there, or only once?—He went while Hornby chapel was repairing, to Claughton church.







Do you remember seeing him at church one particular day when there was a psalm sung—that he used some expression?—Yes; I recollect he said “that is a good tune.”

Was that loud enough to be heard?—Yes; anywhere in Claughton church; it is but a small church; he said “that is a good tune.”

Did you observe Mr. Wright’s daughters with him in the church?—Yes; mostly one or two of them, or more.

Did you take notice how they seemed to treat him?—They used to make fun of him sometimes; they made themselves funny, all by way of plaguing him, and that was fun to them.

To see what he would do?—Yes.

Did you take presents of game and different fruits to people in the neighbourhood?—Never fruit, but I have taken game.

Who used to send you?—By Mr. Wright’s orders.

In whose name did you use to take it?—I was to “take game to such and such places, and give my compliments;” that was always the case; give his (Mr. Wright’s) compliments, and I did so.

Was Mr. Bleasdale there a good deal?—Yes; he was frequently there.

Did you observe whether he was much with Mr. Wright?—I never saw him with any one else but Wright; I never saw him with Marsden.

Did you ever see much inside of the house?—No, only outside; I was never much inside of the house.

Did you ever see them together when you looked through the window in the house?—No, I cannot recollect seeing them together in the house.

Do you know whether many of Wright’s acquaintances came to the Castle; his friends?—There used to be a good deal of people came at particular times, at crow-party days.

Rook-shooting days?—Yes.

What description of persons used to come to the Castle on those occasions?—Colonel Bradshaw, Mr. Housman, Mr. Nelson, and Mr. Batty, of Kirkby Lonsdale, and a great number I cannot recollect.

Had Wright any rookery upon his own property?—Yes.

What was it called?—Snab.

How far from Hornby?—Two miles.

Have you been upon the property?—Yes.

What size is it?—I cannot speak to that.

There is a rookery upon that?—Yes.

And they used to shoot there?—Yes.

Had Wright that property before you went there?—Yes, long before I went.

Was it a hundred acres, or how large—was it a large farm?—I have no idea about the extent of it.

When they came on the rook-shooting parties, did they dine at the Castle?—I dare say they did; I never saw them dine; but they came back to the Castle, I know.

*George Armitstead* sworn. Examined by Mr. CRESSWELL.—Where do you live now?—At Whittington.

Is your father a farmer?—Yes.

Did he ever farm any farm of the Hornby estate?—Yes.

Was his farm near the Castle?—No, his farm was above Whittington; it is a place that they sold.

How long did they keep it after they bought Hornby?—Nearly two years after.

Did your father continue to farm it?—No, only two years.

Did you live in the neighbourhood of Hornby during those two years?—Only when I was hired as a servant, at Hornby Castle, in 1821.

What servant were you?—Under-keeper or ranger.

Did you see much of Mr. Marsden?—Yes, a good deal.

Did he ever talk to you about the game or fishing, or give you any orders?—No, never any.

What sort of man did he appear to be?—He seemed to be a man of very weak conduct and principles.

Did you ever see him act as the owner of the place, or as the master, giving orders?—No, never.

Do you remember assisting in getting stones out of the River Wenning once?—Yes.

Was Wright there?—Yes, he came.

After that, did Marsden come towards you?—No, Marsden was there first, and Wright then came, and Bleasdale with him. Marsden was standing within two yards and a half, or three yards of me; and, when Wright came, he said to him, "What art thou doing here—get away with you, or they will throw you into the water."

What year was that, as near as you can remember?—In 1823 or 1824.

Did he go away?—Yes.

Did he say anything?—He muttered something, but I could not tell what it was.

Have you ever been at the joiner's shop when Marsden came?—Yes.

Once, or at different times?—At different times.

What did he come about?—He used to come and knock, concerning his fiddle.

Did you ever see Wright coming when Marsden was there?—Yes.

And did Marsden see him?—Yes; and, when he did, he went another way.

When he went away, did you ever observe where he went to?—Sometimes he went away and returned. He would not speak to us when he was beside me.

Used he to go away?—Yes; five or six yards off.

Do you remember ever seeing some gentlemen shooting on Melling Fell?—Yes, Mr. Remington and Mr. Maychell.

Did you tell Mr. Wright?—I went and asked his permission.

Did you tell Mr. Wright?—Yes.

What did Wright say?—I saw Mr. Wright, and told him; and he ordered Roger Chester to get four discharges, and to bring them here. Then he rung the bell, and George Smith brought them. Wright rung the bell, and he told Roger Chester to tell Mr. Marsden to come.

What were the words he used to Roger Chester?—He said nothing to him, but to tell Chester to go and tell Marsden to come, "I want him."

Did Mr. Marsden come?—Yes, and he said, "Do you want me?" Wright said, "Yes, come here." So he came here, and he said, "Come, and sign these papers."

Did he tell him what they were?—No, he did not; he put his finger upon it, where he was to write.

Did Marsden sign them?—Yes, he took the pen in his hand, and they were signed by Marsden.





After he had signed them, did Marsden say any thing?—Only, “Do you want any more of me?” and Wright said, “No, you may go away.”

Did he go away?—Yes.

How did Wright conduct himself towards Marsden on that occasion?—There was no particular rude behaviour at that time.

At any other time?—Not that I saw particularly; only he shewed mastery and authority over him.

Was Mr. Bleasdale much there with Mr. Wright?—Yes.

Was he much there with Marsden?—I never saw him but once with Marsden.

Have you ever seen Mr. Wilson, of Lancaster, there?—Yes.

Mr. Batty?—Yes.

And Mr. Sharp?—Yes.

Were they walking about the place?—Yes.

Were they associating with Marsden or Wright?—Wright.

Did you ever see them in conversation with Marsden?—No.

Was he ever near them?—No, he was a good way behind them; I have seen Marsden walking in the garden behind them, pointing to objects, and muttering to himself.

Did you ever see him join with them in conversation?—No.

Cross-examined by the ATTORNEY-GENERAL.—Did you never wait at table?—No, I was merely an out-door servant.

On what occasion was it that happened as to throwing him into the river?—When they were getting stones out of the river Wenning.

Had they any tackle to take them out with?—Yes.

Where was Mr. Marsden?—He was about as near to my shoulder as I am to you.

I think you said only two or three yards off?—I think this will be so.

How near was this to the river?—Marsden was about five yards from the bank; I had hold of the rope belonging to the shear piles, which were on the opposite side of the river.

Who were assisting you?—There was a good many; Enoch Knowles was there.

You say Bleasdale was there?—Yes, Bleasdale came with Wright.

How long had Marsden been there before Bleasdale and Wright came together?—Ten minutes or a quarter of an hour.

You never was asked all this at York?—I never was questioned as to it.

Was it stated to the Jury?—I stated it at York to no person.

By GURNEY, B.—I think you said that Marsden was there first, and Bleasdale and Wright came together?—Yes.

By the ATTORNEY-GENERAL,—How near was Wright to him, when he spoke to him in this way?—About five yards behind him.

Was Wright nearer to you than to Marsden?—No; there was very little difference.

Suppose you were there, and Marsden here; where was Wright?—In that direction; not further than that gentleman who is now rising, where that old gentleman is sitting there. (Pointing to some persons in court.)

You are sure that Bleasdale was there?—Yes.

You never mentioned Bleasdale being there before?—Yes.

That sort of thing never happened but once, did it?—Stone was got out on two different years.

Did you ever hear Wright tell Mr. Marsden to go away in that manner more than once?—No; never but once, and Bleasdale was with him.

Re-examined by Mr. CRESSWELL.—Had they occasion to get stones out of that place more than once?—Not when this happened.

How many days were they employed?—Five or six days at times; when the water was low, upon two different years we were busy five or six days at a time.

*James Marshall* sworn. Examined by Mr. STARKIE.—What are you; are you in service?—I am house servant to Mr. Netherwood.

Were you formerly a post-boy, at the Golden Lion, at Settle?---Yes.

Do you recollect driving Mr. Marsden at any time?---Yes.

Did you take him from Settle, to Mr. Lister's at Belle Hill?---To Mr. Lister's, at Gargrave.

Was his servant, Nutter, there?---Yes, he was.

Did Nutter go along with you?---Yes, he did.

Did he ride inside with Marsden, or outside?---He rode in the inside.

Did you afterwards go with the chaise to bring Marsden from Gargrave?—Yes, I brought him to Belle Hill, at Giggleswick.

Was it upon that occasion that Marsden offered to pay you for driving?—Yes, he did.

Where was it?—Just when he came out of the door, after they had dined; he was going to Hornby Castle; they had dined.

By GURNEY, B.—Where was he; at Gargrave?—No, at Belle Hill.

By Mr. STARKIE.—What did he say to you?—He pulled out a handful of silver, and put it from one hand to the other, and he stepped up to me, and I thought he was going to pay me; and his man said to him, "what are you going to do, you have nothing to do with paying it."

What did Nutter say; give us the words?—Nutter stepped up to him, and said "what are you going to do with your money?"—Mr. Marsden said, "I am going to pay the post-boy." Nutter said, "put it up, you have nothing to do with the post-boy; put your money in your pocket."

What did Marsden say to that?—He said "no, no, I must pay the post-boy of course." Lister came up, and wished him to do as his man said, but he would not agree to that; Nutter then stepped up again, and said "it will be all done when you come to the Castle; you have nothing to do with the post-boy or any thing else."

Did he upon that put it into his pocket?—Yes, he did.

Did you afterwards live at Wennington at Mr. Tatham's?—Yes.

Were Wright and Marsden in the habit of visiting there?—Sometimes.

Do you recollect in particular how Marsden behaved himself when there?—He conducted himself as a boy.

Do you recollect any particular instance of that?—Yes; once after dinner he was walking out upon the pleasure ground, and I saw him at the further side, and I could not think what he was up to; he took his stick, and put it first one way and then another, and pointed it as if he was shooting; and I could not find what he was pointing out, or was doing; he was pointing to the brass dragon, or weathercock, over the summer-house; he was making all sorts of motions with his stick, as if he was going to fire with it.

Did he remain at the same place, or did he go backwards and forwards?—Generally he stepped back when I saw him; it was nearly in the middle of the pleasure-grounds.

After he had gone back at first, what did he do then?—He kept his motion with his stick, when the wind moved the dragon.







Where was the dragon?—On the summer-house.

By GURNEY, B.—Was it a weathercock?—Yes.

By Mr. STARKIE.—Was the dragon part of the weathercock?—Yes.

How long might this continue?—A quarter of an hour, or twenty minutes, I watched him in that posture.

Was he moving backwards and forwards during that time, quivering and pointing as you told us?—Yes.

As the dragon moved?—Yes.

Do you recollect of seeing him near a pond there?—Yes.

Was there any goose or gander upon the pond?—Yes, there was.

What passed between him and the gander on the pond?—He had a strong struggle to get past him.

What did he do?—It seemed to be a hardish task to get past him; and he seemed very much alarmed.

What did he do?—He would get into the new dog kennel, and he asked what were we going to do with those new buildings. I said it was for a dog-kennel for the greyhounds, and hounds, and the pointers; he repeated those words a great many times over, “the greyhounds, the hounds, and the pointers!”

Did he seem to understand you?—Yes, he did.

Did you tell him that more than once?—No; but he repeated them over, “greyhounds, hounds, and pointers”; and he seemed to understand them at last.

Was this about the dog-kennel at Hornby Castle?—Yes.

You told us it was when the gander was upon the pond?—Yes.

What was he doing with his stick?—He was guarding it away from him; to keep it from him.

Did you see the gander come near the side of the pond?—Yes, it was close to the side.

What became of it?—He flew further from it.

Cross-examined by the ATTORNEY-GENERAL.—There is a date or two I want; when was this story of the gander?—It may be nineteen years since, but I cannot say exactly.

Where was it at?—At Hornby Castle.

Nineteen years ago would be about the year 1815?—Very likely.

Was that so?—I believe it was.

Were you then in service?—No, I was at the masonry of this new dog-kennel building.

When was it he was making those motions at the dragon?—That was before.

How long before?—It may have been a year or two; I cannot say exactly.

That was at Tatham's at Wennington Hall?—Yes.

Who lived there?—Trotter Tatham.

Who is Trotter Tatham?—I do not know; he lived there at that time.

That may have been in 1812?—Yes.

Which Mr. Lister was it that went up, when you posted by with Mr. Marsden?—Old Mr. Lister, of Belle Hill.

How long was that ago?—I was about nineteen then.

If you were nineteen then, that is twenty years ago?—Yes.

That was about the time you took him to Belle Hill?—Yes.

Where did you come from?—From Hoygill, in Yorkshire.

How long have you been there?—Nearly two years.

Before you came here, you have been staying there two years?—Yes.

When were you last at Hornby Castle?—I cannot say when I was there last.

When did you last see Mr. Marsden?—I saw Mr. Marsden when I left Hornby Castle.

How many years ago?—About nineteen years ago.

I think you said it was after dinner this happened about the dragon, was it not?—It was.

At what time did they dine there?—I cannot say whether it was four or five o'clock.

What time was this in the evening?—Just after they had dined; he did not stop long in the room.

Re-examined by Mr. STARKIE.—You were a labourer at the dog-kennels?—Yes.

What progress had they made when Mr. Marsden asked you what they were for?—They were nearly finished then.

Had he given you any directions about them?—None at all.

*Robert Sanderson* sworn. Examined by Mr. ARMSTRONG.—*Sanderson*, are you a shoemaker?—Yes.

Did you serve your apprenticeship at Giggleswick?—Yes.

With an uncle of yours?—Yes.

Was he the parish clerk?—Yes.

Did you often see Mr. Marsden at Giggleswick?—Yes.

Who did he visit there?—Mr. Lister, of Belle Hill.

Was your uncle employed by the family at Belle Hill?—Yes; sometimes.

Did Mr. Lister ever come to your uncle's shop with Marsden?—Yes; he very often called when he wanted anything about business.

Did he ever come about business?—Yes.

Did Marsden get his shoes repaired there?—Yes.

Who gave the order for them?—Mr. Lister.

Was Marsden present when Mr. Lister gave the order about it?—Yes.

Mr. Marsden said nothing?—Nothing at all.

Who paid for them?—Mr. Lister.

Were you a singer at Giggleswick church?—Yes.

Did your pew adjoin that of Mr. Lister's?—It did.

Did Marsden go to church when he was staying at Belle Hill?—I believe he scarcely ever missed.

Have you ever seen Marsden behave in any way that attracted your attention, and if so, describe what it was?—Many times Marsden used to start up during service, when he ought to have been seated, and many a time when we were singing, he turned round in different ways, and Mr. Lister used to make a motion to him to sit down; I have seen him to take hold of his coat and pull him back, and Marsden turned round, and then he beckoned with his hand to sit down.

Did he do so?—Yes; he did.

He did so, both when he pulled his coat and beckoned with his hand?—Yes.

Do you ever remember seeing Marsden in the street, at Giggleswick?—Yes.

How far was he from Belle Hill?—Perhaps three hundred yards.





Did he speak to you?—I saw him; he was standing on a piece of ground at the foot of the church-yard, he was turning about one way or other, and calling out “where is Belle Hill!”

At that time he was not more than three hundred yards from Belle Hill?—No.

How often had he been to Belle Hill, according to your knowledge before that time?—Many a time.

Did you shew him the way to Belle Hill?—Yes; I did.

Did he appear to you to have lost himself?—Yes; he did.

What time of the day was this?—It was towards the evening, but it was day-light in the summer season; we had just given over work.

Do you know where he had been?—No; I do not.

Did you afterwards see the elder Mr. Lister?—I did.

Was Marsdon gone on to Belle Hill when Mr. Lister passed you?—No.

Used there to be a horse tied on to the barn close to your shop?—Yes; we had two windows looking out to that place where it was tied.

Have you ever seen Marsden pass your shop window, coming along to where the horse was tied?—Yes; several times.

When he came in sight of the horse what did he do?—He used to turn back; if Lister was with him, he would turn back till he got upon the parapet on the other side of the road, and then creep down to the front of the houses.

Did he appear to you to be frightened?—Yes; he did.

Have you seen him frequently since that time?—Frequently.

Did he always appear to you to be the same sort of a man?—Exactly the same.

Cross-examined by the ATTORNEY-GENERAL.—What was Mr. Lister's age—was he older or younger than Marsden, I mean the gentleman who died in 1814?—I should think he was older—I cannot say; I think he was older, but how much I cannot say.

You used to go to church there?—Regularly.

And Marsden was very often there?—Yes.

Did he repeat the responses then; did Mr. Marsden read the responses?—I have seen him take up the prayer book, but I never saw him as if he was reading.

Then he never did repeat the responses at all?—No, he did not.

Did he appear to know he was at church?—I cannot say whether he did or not.

But he did not appear to be reading?—Yes.

You never heard him utter any of the responses?—No, he never did.

What are you?—A shoemaker.

Is that your principal occupation?—Yes.

Do you ever break dogs?—Yes.

How long have you been a dog-breaker?—Perhaps twenty years.

How many dogs do you you break in the course of the season?—Perhaps three or four.

Do you keep any yourself?—Yes.

You have a gun?—Yes.

How many?—One.

How long have you had a gun?—I have never been without one for twenty years.

You have kept a dog and a gun for twenty years?—Not always a dog ; sometimes I have had one, but I have had a gun all that time.

How near do you live to Hornby Castle?—I never lived nearer than Lancaster in my life.

Is not Kirkby Lonsdale nearer?—No, I believe not.

It is about sixteen miles to Kirkby Lonsdale?—Yes.

How long did you live at Kirkby Lonsdale?—I cannot tell.

They are rather strict in their game at Hornby Castle?—I do not know.

Do you mean to say so?—I do not know.

Now, Mr. Robert Sanderson, do you mean to say you have not the least idea whether, at Hornby, they are strict with their game or not?—I have heard so.

You have no sort of experience of it at all?—I never set a foot on Wright's or Marsden's land in my life.

But there is very good shooting?—I do not know.

You have passed it often?—Yes.

You know whether there is likely to be good shooting at Hornby Castle?—I have heard people say so.

Have you not seen enough to know?—No ; I never was upon it.

GURNEY, B.—You must come nearer to the point you aim at.

The ATTORNEY-GENERAL.—No, I will let it alone ; I have enough of it.

*Robert Hancock* sworn.—Examined by Sir JAMES SCARLETT.—What age are you ? Fifty-six or fifty-seven.

Was your father a labourer in the employ of Mr. Lister, of Belle Hill?—Yes.

When you were a boy did you work there?—Yes, I believe so ; I used to work in the hay-field.

Did you ever do any odd jobs about the house?—Yes ; as soon as I was able, I used to work in the hay-field and do odd jobs about the house ; cleaning boots and shoes, and carrying messages.

Did your father live a short distance from Mr. Lister?—Yes ; about five hundred yards ; not more.

Have you seen Mr. Marsden when on a visit there?—Yes, many a time.

Do you remember a particular occasion when he came near to your father's, when you conducted him home?—Yes.

How old were you then?—Between eleven and twelve, to the best of my recollection.

Where were you when you first saw him?—In the yard, where my father lived. He came to ask for my father,—where old Hancock lived.

He knew your father as a labourer?—Yes ; there was a pointer dog, that belonged to my father ; he came and barked at him ; he began to beat the dog, and the dog was savage, and he ordered the dog to be shot.

To whom did he give that order?—To my mother ; he was in a great passion ; my mother told me to go with him, and shew him the road home.

Did your mother take him into her house?—No ; I shewed him home.

Was the road home through the foot-path?—Yes.

How many fields had you to go through?—Through two fields, and through Giggleswick school yard and the hay-field, into the turnpike road.

A frequented foot-path?—Yes.

And you shewed him home?—Yes.







As you were going with him home through these fields, did he say any thing to you?—Yes; he asked me whose boy I was.

Did you tell him?—Yes.

Did he ask you once only?—Two or three times; I told him each time, and he said, “Old Hancock’s!” every time I told him.

Then he asked you again?—Yes, three or four different times.

Did he do any thing; did he put any thing about your neck?—Yes; he said I should be a fine boy if I had a ruffle, and he pulled off his ruffle, and put it round my neck.

Did you bring it home with you?—I pulled it off before I got to the school yard, lest the boys should see it.

Did you give it back to him?—No; I took it home.

What age were you when you were in Mr. Lister’s service?—Fifteen or sixteen years; I am fifty-six or fifty-seven now.

Had Lister any horses that you had the care of?—He had two mares and another; I had partly the care of them; I was a helper in the stables.

Do you remember Marsden, when on a visit there, coming to the stables once?—Yes.

What were you doing?—I was going to get the dung out behind.

Did he come into the stable?—Yes.

What did he say?—He said, “whose horses are those?” I said “Mr. Lister’s.” “O, Mr. Lister’s,” he says, “what do you call them?” One, I said was Maggy, and the other was Jack. He said he was surprised Mr. Lister had not a breed the same as his, and that the grey ones were a better breed than those bay ones. He repeated that; and he said, your horses appear very dull this morning; I had better fetch my fiddle, and give them a tune.

Did he say what tune he would give them?—No.

What did you say to him?—I said nothing to him.

Did he stay long or did he go out soon?—In ten minutes or a quarter of an hour.

He did not bring his fiddle?—No.

You said nothing about it to him?—No.

He went out, but did not come back again with the fiddle?—No.

Did he say his breed was grey?—Yes.

Any thing else?—He said she was a crop.

By GURNEY, B.---He said no more?—No.

By Sir JAMES SCARLETT.---Have you seen him in the hay field, when the hay makers were making hay?—Yes; many a time.

Did he use to go up to many of the women?---Yes; he used to walk up to many of them.

Which of them?—To those who had any check aprons on; many a time I have seen him go up to those who had check aprons on.

You have seen him come at different times to Mr. Lister’s, in different years?—Yes.

How did he employ himself there?—A great deal in the garden he had; if Mr. Lister went out and left him at home, he walked in the garden.

But when he went from home did you often see him alone?—No.

Who went with him generally?—I do not know that any body went with him except Thomas Waller.

Did you see him with any one at Lister’s?—I have seen Lister and him walk out together, and at other times with Thomas Waller.

Do you remember on one occasion when he was at Giggleswick, and some boys with him?—Yes.

How long ago is that?—When I was twenty-four.

What happened when you were that age?—I was coming on horseback, and there were four or five boys shouting and plaguing him; they were shouting out, “there goes crazy Marsden,” and throwing dirt at him.

As you came near him, was any thing put upon his back?—A piece of white paper, or a piece of cloth was stuck upon his back.

By the ATTORNEY-GENERAL.—Was that done so as he could see it?—There was a blacksmith called John Greenwood passing by, and as I was on horseback I said, if he would take Marsden up to Lister, he would get a pint of ale.

By Sir JAMES SCARLETT.—Did he do so?—Yes.

You have seen him very often at Lister’s?—Yes; many times.

At the time you saw him, did you think him capable of managing his own affairs?—I did not.

*Mr. John Tugwood* sworn.—Examined by Mr. CRESSWELL.—Do you live in Lancaster, Mr. Tugwood?—I do.

For many years?—More than fifty.

Were you formerly an ironmonger?—Yes.

And now an auctioneer?—Yes.

Were you a supporter of Mr. Cawthorne, at the elections of 1817 and 1818?—In 1802 I began.

Were you one of his committee?—I was, of the early election, not the last one.

Were you employed in arranging the tallies to go off to poll at the Town-hall?—Yes; in 1818.

Were you one of the persons that had the care of the tallies?—Yes; from Mr. Cawthorne’s house to the Town-hall; his house was at Market-street, at the the top of it, and the committee was holden there.

Was Wright a supporter of Cawthorne?—Always.

Were you?—Yes.

Did Marsden support him too?—Yes; he came along with Wright.

How did the voters come from Hornby?—Generally in one day.

Did they come together?—Yes; and Marsden and the servant in the carriage, and the voters followed them; some on horseback, some in gigs, and some in one way, and some in another.

Did they come up in procession to Cawthorne’s committee-room?—Yes; a band went to meet him; it was all arranged for to come; the day was fixed for them to come, and the band was sent to the town end to conduct them in.

When they came to the committee-room, how was it managed then?—A great deal of attention was shewn to Mr. Marsden; the committee went out to meet them.

Was there a Hornby tally formed?—Yes.

How was that formed?—Marsden and Wright, and other respectable gentlemen, who came with them; they went with them.

Did any body generally walk arm in arm with Marsden to the poll?—Yes.

Who walked with him to the poll?—I cannot say positively, whether Wright did so in 1818; but I recollect the tally was formed on the steps, and sometimes we had difficulty in getting the men into order; I think Wright came down with him.





Did they then march off to the poll?—Yes, immediately; and Mr. Marsden kept bowing first to one person and then to another.

Was he very polite to every one about him?—Yes, very.

Did Wright interfere with the arrangement of the tally?—I cannot say; I was not then at the room. I went to the hustings; there was a gentleman who moved from the place before the tallies.

Was it Mr. Marsden?—I cannot tell.

Were they all polled off as soon as the tally could be formed, or as soon as the Hornby procession came?—Yes, as soon as possible.

Do you remember Marsden dining with the friends of Cawthorne at a tavern?—Yes; that was after the election of 1818.

Who did he come with?—I cannot say; I dined there.

Who sat next him?—He sat between Wright, and Sharp, the attorney.

Do you remember, after dinner, Marsden attempting to do anything?—Yes; he frequently stood up to make a speech, or to sing a song, but as soon as he got up he was pulled down by Wright or by Mr. Sharp.

Did you hear Wright say anything to him at the time?—No.

And he stood up again?—Yes, repeatedly.

Cross-examined by the ATTORNEY-GENERAL.—How late in the evening was that?—It was not more than ten minutes after dinner that this took place.

During the elections, did you ever poll at York?—No; I am not a freeman.

I mean, you were not at the trial?—No, I was not.

Re-examined by Mr. CRESSWELL.—One question—from what you recollect of that dinner, was the company fuddled or sober at that time?—We were all perfectly sober, and it was impossible for Marsden to have been otherwise than sober, for Wright took care not to let his glass be above half filled.

*James Hawthornthwaite* sworn. Examined by Mr. STARKIE.—Mr. Hawthornthwaite, were you, in 1823, a sheriff's officer at Lancaster?—I was.

In August of that year, did you go to Hornby Castle to summon Marsden on one special jury and Wright on another?—I did.

In going there, did you meet with George Smith?—Yes, I did.

I do not ask you what passed between you and him, but did you leave any summons with Smith, for Wright?—Yes; but not for Marsden.

After that, did you meet Wright in Lancaster?—I did.

Had you any conversation with him about this summons for Marsden?—Yes.

State what passed?—I saw Wright at the King's Arms, in Lancaster, in August, 1823. I asked him if he had got a summons; he said, he had; I said I had also a summons for Mr. Marsden to attend at a special jury, and I said it was of no use summoning him, as he was insane; he said, he was not exactly insane, but not capable of filling the office of a jurymen.

Did you tell Wright from whom you understood that?—No, I did not.

In consequence of what Wright said, did you summon Marsden?—I did not.

There was no cross-examination of this witness.

Sir J. SCARLETT.—I am going to read that part of Bleasdale's evidence which we have got here in his deposition in chancery.

The clerk was then directed to read Mr. Bleasdale's deposition in chancery to the last interrogatory.

....."And this deponent saith that he did not make any charge for preparing any of the wills or codicils mentioned in his foregoing depositions, nor did he receive any compensation for the same except the sum of money enclosed in the said John Marsden's letter to him, dated the 28th day of December, 1815, as stated in his answer to the twelfth interrogatory. And deponent saith that not thinking it respectful towards the said John Marsden to return the said sum of money to him, he took an opportunity of laying out the same, with a further sum of his own money, in purchasing a window of painted glass, exhibiting, amongst other things, the said John Marsden's arms, in the chapel at Hornby, and with which he expressed himself much gratified."

Sir J. SCARLETT.—That is as to the letter which speaks of the painted window.

GURNEY, B.—There is a letter I cannot find; it is dated in November, 1819, from Marsden. There is no letter from Marsden in 1819, but there is a letter of Dawson's.

Mr. CRESSWELL.—It is dated the 24th November, 1819.

GURNEY, B.—There is no letter of that date.

ATTORNEY-GENERAL.—Is there such a letter; if there be, I am desirous to produce it. There was a letter from Dawson to Marsden in September, 1819; that is in the schedule. Has your lordship any of the copies that were used on the former trial?

GURNEY, B.—Yes, I have them; they have been all locked up ever since. I have no copy of that of the 24th of November, 1819. That was certainly not used the last time, as I have all the copies that were produced.

Sir J. SCARLETT.—There may be some mistake about it, we will search for it.

ATTORNEY-GENERAL.—If there be anything shewn to be a copy of it, I will admit it.

GURNEY, B.—I have all that were produced at the last trial; and, in addition to that, I have some others; but at the last trial I think there was no letter of that date produced.

ATTORNEY-GENERAL.—Have Mr. Justice Park's notes any mention of that letter being produced?

GURNEY, B.—I have a memorandum of all the letters that were read at Lancaster.

ATTORNEY-GENERAL.—Perhaps Mr. Fraser will examine his notes taken on both those trials, at York and Lancaster, as to whether such a letter was produced. They have been to London and elsewhere, tumbling about.

GURNEY, B.—Yes, Mr. Fraser will examine his notes and inform us to-morrow.

Mr. Fraser.—Yes, my lord, I will search for it in my notes of those trials. I have no doubt I have it mentioned, if any such letter were produced and read.

GURNEY B. (to counsel).—Have you anything else to produce now?

Sir J. SCARLETT.—No, my lord, I do not think I have. We have plenty of evidence to give your lordship, but perhaps at this hour you would be inclined to adjourn.

GURNEY, B.—If you have a short one you might call another witness, but if you think it right we will adjourn.







Sir J. SCARLETT.—Our next witness is of a different class.

GURNEY B.—Then we will adjourn now.

The court adjourned at five p. m. to next day.

#### EIGHTH DAY.

*John Clarke* sworn.—Examined by Sir JAMES SCARLETT.—Mr. Clarke, did you ever live as gardener with Mr. Clarkson, at Heysham?—As servant; not as gardener.

With the Reverend Mr. Clarkson?—Yes.

By GURNEY, B.—There were two, Thomas and Townley Clarkson?—Yes; I was with Thomas.

By Sir JAMES SCARLETT.—When did you first go to live with him?—Thirty-three years ago, or rather in 1806; I lived seven years with him.

Was he very intimate with Wright?—Yes.

Did he often visit Mr. Wright?—He did.

And Wright visited him?—Yes.

Where did he visit Wright?—At Hornby Castle.

Did he make any stay in the house?—Yes; a week at once.

By GURNEY, B.—Did you go to Hornby Castle with him?—Yes, my lord.

By Sir JAMES SCARLETT.—And waited upon him at table, when there?—Yes.

When there, were none but the family there; where did Wright sit?—At the bottom.

Where did Marsden sit?—On Wright's right hand.

Did they change places at the end of the table?—Not during my stay.

Have you been there when there was company?—Yes.

Did Marsden take Wright's place then?—No; not when I stopped.

You have been waiting at table there for a week together?—I have.

Did you ever hear Mr. Marsden have any regular conversation at table?—Never in my life.

Did Mr. Clarkson use to converse with him?—Very little; I never heard Marsden have any regular conversation with any one whatever.

Have you never known Wright say anything to Marsden, as to leaving the table?—I have heard him of an evening tell him to go to bed.

What has he said to him?—He has looked in that way (demonstrating it by staring), and saying "go to bed."

Did Marsden go to bed upon that?—He went up to his dressing-room.

Has that happened often?—Six or eight times.

Where was Marsden's dressing-room?—We passed through his dressing-room to go to our bed-rooms.

When you did go, have you observed him at all in his bed-room?—He was in his dressing-room.

How has he been employed there?—Sometimes, as we passed through, he has been amusing himself with his fiddle, and at other times, muttering and smiling, and talking to himself.

Did he laugh when he talked to himself?—Yes.

How long have you known him go on in that way?—We used to go to bed about eleven, and I have heard him at one or two in the morning, walking about, and making noises in the room.

Do you remember any instance of his riding an old grey horse with the hounds at Heysham?—Yes.

Were the Hornby hounds brought to Heysham to hunt sometimes?—Yes, they were.

Where was Marsden's place when he went out with the hounds?—I observed him one day in a field, where he could not get out; I was in the same field where he was, and was following the hounds.

Did the other horsemen go into the same field?—No, they did not; Mr. Marsden and myself were upon horseback in that field.

When he had tried to get out of the field some time,—what sort of hedge separated that field from the other?—A staff and bend hedge, or dry-made hedge.

Was there any ditch?—No; the sticks were upon level ground, and it was bound with dry wood.

In order to get out of the field, what did he do?—He asked a person, who was employed by Mr. Clarkson, to pull down that temporary hedge, and he said "I will show you a leap."

Was the fence pulled down?—Yes.

What did he do?—He went through.

Was there any leap?—He said, "There is a leap!"

Was there any leap?—No; there was not; his horse walked through as upon level ground.

Did he say anything else?—Nothing else then.

Do you remember the course at Heysham, and Mr. Marsden coming there at any time?—Yes.

He came with Mr. Wright, did he, or by himself?—He was by himself; Wright was with Clarkson.

Was there a black horse called Major?—Yes.

Were there four horses?—Yes.

Was Major the biggest horse?—Yes; the leading horse of the team.

Have you heard any question asked of the ploughman by Marsden?—Yes; he struck his stick upon the plough, and said, is this what you call Major.

Was the horse a lazy horse?—Yes; and we used to call him by name; and Marsden struck his stick upon the plough, and said, "is this what you call Major?"

By GURNEY, B.—How long is this ago?—Between 1801, and 1806, or about twenty-seven years ago.

By Sir JAMES SCARLETT.—Did the ploughman tell him?—Yes; he told him it was the leading horse, which they called Major.

Do you remember, upon one occasion, at Hornby Castle, after Marsden was directed to go to bed, he came down stairs again?—Yes, he did.

How long had he been up stairs before he came down?—Perhaps an hour.

Where were you when he came down?—At the bottom of the staircase.

Where was Wright?—In the room.

What did he say?—He said he had played "Dainty Davie," ten times over, and he would play it again, before he went to bed.

What did Wright say?—He said, "No, no, go to bed, go to bed."

Did he go up stairs again?—Yes, he did.

You say the way to the servants' bed room was through his dressing-room?—Yes.

Did you see him knock at the servants' apartment?—Yes; at one time





he had lost a pocket handkerchief, and he wanted his servant to explain where it was. Thomas Waller was in bed at that time.

Did Waller explain it?—I said, Thomas, your master is knocking for you. And what did he say, in the hearing of Marsden?—He said, "The old fool, never mind him, let him go on."

He did not go to him, did he?—He never went to him.

Have you ever known him knock, on any other occasions?—Yes, many times during my stay there.

Did the servants ever attend to him?—The servants never attended to him.

In what manner was Marsden treated in the house. Was he treated as master, or as a child?—He was treated as a child, and not as the master.

By the servants?—By every one in the house; they did not notice him upon any account.

Cross-examined by the ATTORNEY-GENERAL.—You were not examined at York, I believe?—I was not.

When were you first subpoenaed?—I was subpoenaed to go to York; I was at York, but I was not examined.

Did you stay to the end of the trial?—I stayed till that morning it was finished in the evening.

You were not examined?—No.

You had been with Mr. Clarkson seven years?—Yes.

He was rector of Heysham?—Yes.

How often did Marsden use to come there?—Perhaps as many as six, or seven, or ten times, while I was there.

Did he pay annual visits?—He came over to visit Mr. Clarkson; I cannot state exactly whether he came as an annual visitor; he came sometimes once, and sometimes twice a-year.

Sometimes with Wright, and sometimes without him?—He came without Wright, but with his servant.

Did Wright accompany him upon these visits, or not in general?—Sometimes he did, and sometimes not.

In general how was it?—He was oftener without him than with him.

Now, you said you were in Mr. Thomas Clarkson's service?—Yes.

How long has he been dead?—He has been dead for twenty-two years, but he died after I had left him; I have no particular recollection.

Was he a gentleman?—Yes; for any thing I knew.

Is that the way you speak of your master, with whom you were seven years?—Yes; he was a gentleman; he was a clergyman.

And a man of weakly habits?—Yes; he was.

Did he not frequent the first society in his neighbourhood?—Yes generally; very respectable families used to visit him, and he them.

Was he regular in his attendances to the duties of his church?—He generally was there every Sunday.

Did Mr. Marsden go with him when he was there?—Yes; he went with Mrs. Clarkson.

Is she too, dead?—Yes, she is.

When Marsden was staying there by himself, did he breakfast and dine with Mr. and Mrs. Thomas Clarkson?—Yes, he did.

Did you wait there at your master's table?—Yes.

Have you any conversation, or difference, or circumstance to mention, any thing improper?—Only that he never conversed.

Used you to go to church?---Yes, when I was at that place I went to church regularly.

Did you sit near your master's pew?---They sat in the front, and we sat next, backwards.

Was Mr. Marsden a constant attendant upon the devotions of the church?---Yes, regularly every Sunday, when he was there.

Did he not join in the devotions of the church?---I did not say that he did.

Did he do so, or not?---He did not.

Had he ever a prayer book in his hand?---I never saw him take up a book of any kind.

Neither in nor out of church?---No.

Did he not use a prayer book in church?---I never saw him read it.

Did he join in the responses?---He got up, and he used the same form as other people did.

Did he read the responses?---I never heard him.

Did he ever take the sacrament when you were there?---I cannot tell whether he did or not; I cannot recollect that he was ever at the sacrament; it was but four times in the year.

Will you undertake to say, he never did?---He never did, to my knowledge.

How long has he staid there upon a visit with Mr. and Mrs. Thomas Clarkson?---I cannot say; sometimes a fortnight, and sometimes three weeks, and sometimes a short time.

Who was the servant he had then?---The same servant all my time; he had Thomas Waller.

Do you know whether he was godfather to one of Thomas Clarkson's children?---I do not know.

When he was there, did Mr. Clarkson invite persons to meet him?---There was a party there during his stay.

Did nobody come to the house whilst he was there?---Yes, there might be one or two.

Could you name any body that was at the house when he was there?---I think old Mr. Ridley, the father of the clergyman, was there.

Any body else?---I do not recollect any body, in particular, except him, and he lived in the same village; he used to come in a free way, and take dinner with them.

Did your master ever dine out, when Marsden was there?---I do not think he did; it was very seldom he dined out; there was nobody there that he visited much at Heysham.

Did he not take Marsden with him to visit, when he went out to visit?---He never did when I was there.

Do you mean to swear that?---Yes, I do.

How often have you gone to Hornby Castle with your master?---I cannot tell how often in the seven years; perhaps eight or ten weeks in the year, or sometimes more.

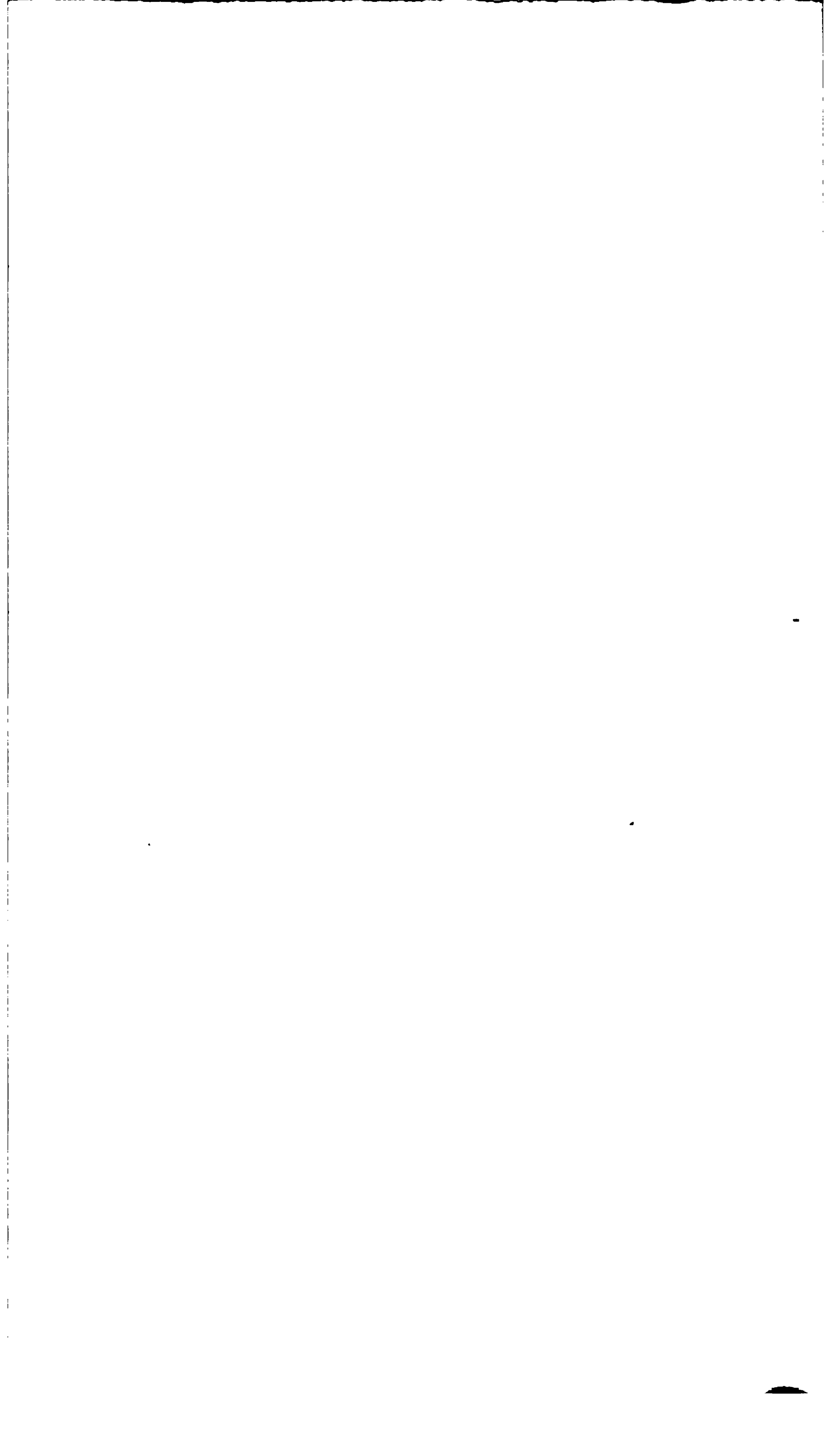
You say Marsden was at your master's eight or ten times?---He was, during my stopping there.

Did you know Mr. Townley Clarkson?---Yes, very well.

What was he?---He was a fellow-commoner, at Jesus College, in Cambridge.

Was you with him?---Yes.

What was he then?---I cannot tell what he was after that occupation.







What did you ever see him do?—He used to come once a year to our house to stop.

Did you see him much?—I saw him eight or ten weeks when he came down.

Do you mean when he was a fellow-commoner of Jesus College?—I do not know.

Was he not a man grown?—Yes.

There is no doubt he was a fellow---was he older or younger than his brother?—He was younger.

Did you ever see him there when Marsden was there?—Yes.

How often have you seen Townley Clarkson there?—I cannot tell how often.

Was it so often?—No; it being thirty-three years, since I do not keep every thing in my head during all that time.

Have you seen him there several times?—Yes; sometimes he came and brought one of his pupils with him, and then went to Scotland.

Have you often seen him there when Marsden was there?—I have, once or twice.

Did you ever see Mr. Townley Clarkson, at Hornby Castle, when you paid your visits with your master?—I saw him once there with one of his pupils shooting moor game, on the 12th of August.

Was he then with your master?—Yes.

How long did he stay there?—Four or five days.

Do you know whether Townley Clarkson was a clergyman, as well as your master?—I never heard that he had preached.

Have you ever seen him dressed in black?—I have seen him in various dresses.

By GURNEY, B.—Have you ever seen him in blue or brown coats?—Yes, I have.

By the ATTORNEY-GENERAL.—You were in the habit of attending to their conversation, both at home and abroad?—I was in the habit of seeing him more at home, than when I was abroad.

Then is your evidence, as to conversations, and as to waiting at table, applicable to Hornby Castle?—Yes, as to their changing places at table; I was asked as to that by Sir James Scarlett.

How long did you use to wait then at table?—Perhaps an hour, or sometimes more or less; I went away when the cloth was taken away.

When was it first, with reference to this cause, you stated all these circumstances; these domestic anecdotes, as to your master?—I cannot state, but it was after Mr. Marsden's death, long.

As you remember a conversation of thirty-three years ago, you can tell us whether you told this to any body?—I cannot exactly express it.

Express it as nearly as you can?—Perhaps, four years ago.

To whom?—I have had conversation with different people about it.

Then you have less difficulty in telling me the name of somebody?—I have had conversation with Mr. Higgin about it.

Was he the first person you saw about it?—He was the first person I had any particular discourse with about it.

Is he the first person you saw about it?—He is.

What did you mean by saying he was the first you had any conversation with, about it, upon any particular occasion; did you ever see Admiral Tatham about it?—I did not.

Did you ever see Admiral Tatham at all?—I have seen him in the street, when he lived in this town.

Did you ever see him any where else?—I have seen him in his own house, but not upon this business.

How came you to see him there?—Because I collected the rates and tithes from him.

Who sent you to Mr. Higgin?—Mr. Higgin sent to me. I lived in Lancaster nineteen or twenty years.

You were at York many days before the trial, were you not?—Yes; for many days.

Do you mean to say you never spoke to Admiral Tatham before you spoke to Mr. Higgin?—He never spoke to me about it.

Did you ever speak to him about it before you saw Higgin?—I did not.

How long had you seen Higgin before the trial at York?—Perhaps two days.

Re-examined by Sir J. SCARLETT.—Was Mr. Thomas Clarkson, your master, a great sportsman?—He was very fond of shooting and hunting.

Did he go to Hornby Castle then?—Yes; and when they went upon the moors they dined upon the moors; when they went a cock-shooting, they came home to dinner.

Who used to go upon the moors with them?—Mr. Wright was one; he was very fond of shooting at that time.

Had your master and Mr. Marsden been intimate?—Yes.

And also the brother of Mr. Clarkson, Mr. Townley Clarkson?—Yes; he was very intimate.

Did Marsden ever come without his servant, Thomas Waller?—He never did.

*Mr. George Singleton* sworn. Examined by Mr. CRESSWELL.—I believe you keep the Cavendish Arms, at Cartmel?—Yes.

Were you ever in the service of Mr. Robert Hesketh of Heysham?—Yes.

As house-servant?—Yes.

When did you go to him?—It is twenty years since I left him.

How many years were you with him?—I was with him twelve months.

Had Wright a house at Heysham at that time?—I do not recollect.

Did Wright ever come to your master's house?—Yes.

And Marsden?—Both.

Did they come to dine?—Yes.

Once or several times?—Five or six times whilst I was there.

Who used Marsden to sit next, at dinner?—Mr. Wright.

How used Wright to behave to him then?—He seemed to be master.

Did you ever hear him say any thing to him that attracted your attention?—Yes; Mr. Marsden let his knife and fork fall upon one occasion, and Mr. Wright said, "What do you blunder about, you fool—is that the way to hold a knife and fork?"

How did Mr. Marsden seem?—He seemed afraid, and held down his head.

By GURNEY, B.—Was Mr. Hesketh at table?—Yes.

By Mr. CRESSWELL.—Did it make any impression upon you?—(No answer.)

The ATTORNEY-GENERAL.—Do you think that is evidence?

Mr. CRESSWELL.—By and by, we shall have it asked, how came you to recollect it?

How came this to make an impression upon you, so as to recollect it?—It seemed so different from what I saw before.





Cross-examined by the ATTORNEY-GENERAL.—Mr. Hesketh is dead, is he?—Yes.

Was he ever high-sheriff of this county?—Yes.

Have you ever been in many services?—Yes.

Were you ever in the service of a more gentlemanly man than Mr. Hesketh?—No.

Was he not a man of fortune and high character?—Yes.

He was the father of Mr. Hesketh Fleetwood?—Yes.

And Charles Hesketh?—Yes.

Was Mrs. Hesketh there?—Yes.

Was there a party there?—We were just there ourselves.

How did they sit, as there were only four persons?—There were five; there were also a Miss Rawlinson, Mrs. Hesketh's sister.

Is Mrs. Hesketh dead?—Yes.

How often have you seen Wright and Marsden there?—I cannot say; perhaps five times.

Can you give a date to this—how long were you in the service of Mrs. Hesketh?—I cannot say; it is twenty years since I was in the service.

Was this in the beginning, or the end of the year—that you were there?—About the middle of the year.

While you were there, did your master ever go to Hornby Castle?—I do not recollect his going. I was never with him.

Do you mean to say that you have no reason to know that he went to Hornby Castle?—I do not know that he did: I was never with him.

Were you in the habit of going where your master visited?—Very little.

Were you his personal servant?—Yes; I was his only house servant.

Did you go with him when he visited in the neighbourhood?—No.

Are you able to say that Marsden ever went from Hornby Castle. Do you remember the carriage being ordered for him upon any occasion?—No; I do not know.

But you remember Marsden being there four or five times, when you were there?—Yes.

And upon other occasions have other persons been there?—No; never there, with any company but themselves—not when I was there.

Do you mean to swear that Wright was never there with Marsden, when there was company?—I cannot say. Dr. Campbell and Mr. Smith might come two or three times a week.

I mean any company?—No.

By GURNEY, B.—While Marsden and Wright were there?—They might come in by chance, to dinner.

By the ATTORNEY-GENERAL.—At that time, was there any sickness in the house while you were there?—No.

Were the family in mourning during any part of the time?—Yes.

For whom?—For Mrs. Bold, my master's brother's wife.

Did they lose any of their children, while you were there?—No; not when I was there. They were all living, when I was there.

Was there a good deal of sickness while you were in the house?—Charles was very delicate.

Who were the doctors of the family?—Both Campbell and Smith.

Did they attend more than once a week?—Yes.

Very often?—Yes; and master was very delicate and poorly, when I was there.

Was he also attended by medical men?—Yes; they used to call up and see him.

How long was your master ill, while you were there?—For ten weeks together. I used to help him up stairs.

Had Mr. Hesketh any parties at that time?—Not when he was poorly.

Had he any parties at all?—Yes; he had a very large party just before I went away.

Not when Mr. Marsden was there?—No.

Do you remember any other party, than that large party, when you were there?—I cannot recollect it is so long ago; and we had many parties.

Cross-examined by Mr. CRESSWELL.—Was that Dr. Campbell, of Lancaster?—Yes.

Who was that Mrs. Bold, that died?—A relation. She was a cousin to my master.

Not your master's brother's wife?—No; she was my master's cousin.

Was your master's elder brother living then?—Yes.

Your master did not succeed to a fortune at that time, did he?—No.

You were the only house-servant?—Yes.

You have been asked as to his succeeding to his brother, on his death?—Yes

Had he come to Wennington Hall from Heysham, at that time?—Yes.

You were asked whether you ever saw a more gentlemanly man than Hesketh was: did you ever see a steward treat his master as Wright did?—(No answer.)

ATTORNEY-GENERAL.—I cannot see how that is evidence.

Mr. CRESSWELL.—My friend asked whether he ever saw a more gentlemanly man than Hesketh was; and therefore I wished to ask him about what he saw in other services.

GURNEY, B.—Even if that be correct, it is a question quite unnecessary.

By GURNEY, B.—Was that said by Wright in a whisper, or in a loud voice, to be heard by all the company?—Yes, my lord, in a loud voice rather angrily.

So as to be heard by Mr. and Mrs. Hesketh, and Miss Rawlinson, and the servants?—Yes, my lord.

You were the only servant in the room?—Yes.

*John Tully*, sworn.—Examined by Mr. STARKIE.—What are you, Tully?—A stone-mason, living at Chipping.

Were you ever at Heysham, working for Mr. Wright?—Yes.

How long ago?—In 1818.

How long did you work there?—I went on the third of May, and remained there till the latter end of November.

Were you employed in an out-building, or brew-house?—Yes.

And some other buildings of that kind?—Yes.

By GURNEY, B.—Was this at Wright's at Heysham?—Yes.

By Mr. STARKIE.—Did you see Marsden then frequently?—Yes, every day.

Did he use to come to you very often when you were working there?—Yes, very often.

Did he use to ask you questions?—Yes, frequently. He asked me every time he came what the out-houses were for, and I told him every time he came.







What buildings did you tell him they were?—I told him they were brew-houses, wash-houses, and coal-houses.

How often would he come and ask you the same questions again?—The next time he came, and he came almost every day; he did not speak every time he came.

How long would he be before he asked the same question again?—Perhaps the next day.

Did anything ever pass between you, except asking questions of this kind?---Nothing.

You had no conversation with him, upon any other subject?---No.

Did you afterwards go to work upon another occasion, after that time you mention, at Heysham?---Yes, in 1820.

Had you frequent opportunities then of seeing Marsden?---Yes, I had.

Do you recollect seeing him along with Wright, one evening, about sunset?---Yes.

Was another gentleman there, a Mr. Brancker?---Yes, he was.

Did you hear any conversation pass?---Yes: Marsden was four yards from me, and Brancker at the time came walking between him and me; Brancker asked me what time I dropped work, I said six o'clock, upon which Wright took out his watch, and looked at it, and Marsden did so too; Brancker said, "I am with the sun at Liverpool, I am with the Liverpool time, and it is the same with the sun." Upon this Marsden asked him if it was the same sun at Liverpool as we have at Heysham? he received no answer at first, so he asked him once again, and Brancker said, "Yes."

Do you recollect one of the masons having a dog that used to run after the rabbits?—Yes, but it was not one that belonged to any one that was working for Wright; but it was a dog that used to run up to the rabbits.

Was that dog shot?—I heard the report of a gun, but never saw it myself.

After hearing that report, did you see Mr. Marsden?—Yes.

Did he come to you?—Yes.

Did he say anything about the dog?—He came running up to me in ten minutes after, and he asked me if the dog was shot, and I said I heard the report of a gun, but I could not say; upon this he asked "will it bite?" I said "no, it will not if it be shot."

Did he ask that more than once?—He asked me next morning again if it were shot, and I said it was.

Did you know then that it was shot?—Yes, I believe it was shot; I heard the man say so that had followed it; he said it was shot.

What did Marsden say then?—He said, "would it bite?" and I said "it would not bite now."

Have you heard Mr. Marsden play upon the fiddle?—Yes.

What tune did he play?—"Dainty Davie."

Did you ever hear him play the whole of that tune?—No.

Do you recollect Wm. Whittam?—Yes.

Was he your master's servant?—Yes.

Did Whittam ever come to you with a message from Marsden?—Yes, he wanted me to whistle for him.

Where was Marsden's room?—Just above my window.

What was it he wanted you to whistle for him?—The second part of "Dainty Davie."

Upon Whittam asking you to do so, did you do it?—Yes, more than once.

Upon your doing so, did Marsden attempt to play it?—Yes, he played the first, and then I whistled the second part.

Did he try to play the second part?—He could not fill up the time.

Did he try to do it?—Yes, he did, but always stopped.

Did Marsden ever say anything to you about going to Hornby?—Yes, many a time; when Wright and me were talking, two or three times a day, Marsden would come up to me after Wright had left me, and ask me if Wright had mentioned whether he was going to Hornby.

Did he do that more than once?—Yes, at the latter end of the year; he never did that in the summer.

That was after Wright had left you?—Yes.

Did he say when he wished to go, or not?—Yes.

What did he say?—He said he could love to go to Hornby.

Did he ever come to say this when Wright was with you?—No, never.

He always waited till Wright went away?—He always came after him; I do not say that he watched him.

How soon did he come to you after Wright went away?—I cannot say.

Did Wright ever come to talk to you, when he was going to Hornby?—No, never.

Cross-examined by the ATTORNEY-GENERAL.—In whose service were you then?—Under Wallace and Stanley, master masons.

In what year was that you last spoke of?—It was in the year 1820.

Pray do you know a person of the name of Jennings?—Yes.

What is he?—A stone mason; he was there part of the day I was there; he was not working with me, but at another job.

Was he there at the time you were there?—A part of it.

In the year 1820?—Yes; at a different job; he was working at the sea side for a bathing house, and I was at the house.

*Nicholas Holme*, sworn. Examined by Mr. ARMSTRONG.—Where do you live now?—At Manchester.

Were you a servant with Mr. John Hadwin, of Lower Heysham?—Yes.

What year was that in?—In 1820.

Do you remember Marsden being at Heysham at that time?—Yes.

Do you remember, upon one occasion, being there threshing in the barn?—Yes.

Did anything happen to Marsden at that time?—Yes, he came up to the barn-door, and said, please Mr. Marsden, “what time of the day is it.”

What did he say?—He said, “it is ten minutes past three.”

Was he looking at his watch at that time?—No, he was not; I asked him to look at his watch, and he did so; I then said, “is it that time.”

What did he say?—He said, “yes, it is ten minutes past three.”

Did you see the watch?—I took it into my hand.

What time was it by the watch?—It was ten minutes past eleven.

Did you ever see him shew fear of a pig?—Yes.

Where was that?—Routing amongst the straw by the barn door.

How do you know he was afraid?—He said he durst not go by it.

Did you get him by it?—He waited till I did so; and I did so.

Have you ever seen the children in the street, teasing Mr. Marsden?—I have seen them tearing at his coat laps.





Do you recollect whether this happened, upon any occasion, when Wright saw it?—Yes.

At what distance was Wright from Marsden and the children, then?—Close by.

Did Wright say anything to Marsden?—He said, “follow me, man, what are you doing there?” and then he said, “you had better go home.”

What did Marsden do then?—Wright held up his stick at him.

What did Marsden do?—He went towards home, and there was a midden-stead between Wright and him, and Wright came up on one side and Marsden went round the other side, so as not to meet Wright.

Do you remember being at Wennington Park, when some deer were to be shot?—Yes; I lived then at Moss-house.

By GURNEY, B.—Who was the owner of Wennington Park, then?—Mr. Marsden.

When was this?—The year after I left Heysham; it would be in 1821; I went to Richard Shires, at Moss-house farm.

Is Wennington Park, the park of Wennington Hall?—Yes.

Who was shooting the deer?—Mr. Wright.

Was Marsden up there upon this occasion?—Yes, at a distance off.

Did you hear Wright give any orders, as to what was to be done with Marsden?—Mr. Wright had shot at the deer, but had missed it, and the deer came running round the park, and run down near where Marsden was standing; and he said, “take that d——d fool up into yonder wood.”

Who was that said by?—By Wright.

Who was the appellation, “d——d fool,” applied to?—Mr. Marsden.

Cross-examined by the ATTORNEY-GENERAL.—What are you now, Mr. Holme?—I am a dyer.

How long have you been a dyer?—Many years; I may say twelve years.

What were you before this?—A plasterer’s labourer.

And what were you before that; I was a serving man.

Were you a gentleman’s servant?—I was a labourer.

Were you in the service of John Hadwin?—He was not a gentleman; I was a labourer with him.

Have you ever been any where else?—I have been at several jobs.

Do you mean you job in any thing you can get employment in?—I was in one place nearly three years; that was at Manchester.

Was that a dyeing place?—Yes.

*John Crookall* sworn. Examined by Sir JAMES SCARLETT.—Are you a joiner by trade?—I am a cabinet-maker.

Do you remember, at any time, working under Jonathan Batty, of Lancaster, at Broom-house, in Heysham?—Yes, in 1818.

How long were you at work there?—A month or five weeks; I cannot say.

Were Wright and Marsden there at that time?—Yes.

Do you know Enoch Knowles?—Yes.

Was he at work there at that time?—He was.

Do you remember, at any time, Marsden coming in a hurry up to the shop?—Yes.

Was Knowles there then?—Yes; and Marsden came running into the

shop, and said, " Enoch, the handle of my fiddle-case is broken, and William (meaning his man) has broken it, and should not William pay for it." Then Enoch said, " I think he will, sir." During this time Marsden kept looking back when he spoke to him.

Did he repeat that?—He went away, and then in ten minutes he came again with the same tale.

And asking the same question?—Yes; asking Enoch, not me.

What answer did he get, or did he get any?—Yes; he gave the same answer, that he thought William should pay for it.

Did he bring the handle with him?—No, Sir.

Was the handle broken, do you know?—I do not know.

During the time you staid there, did you see him often walking about?—Yes.

Did he use to come often to the shop?—Never, when I was there, but then.

You say you observed that he kept looking back?—Yes; but I did not know what it meant.

Did you ever hear any conversation between him and Wright?—No, Sir.

Did you see Wright go past him when he was walking?—Yes, Sir.

Did he notice him?—No.

Was he noticed by other people?—Not at all.

(There was no cross-examination of this witness.)

*Thomas Standing* sworn.—Examined by Mr. CRESSWELL.—I believe you are a surveyor and builder?—Yes.

Where do you live?—At Liverpool.

Did you know the late John Marsden?—Yes.

When did you first see him?—In the year 1797.

Down to what time did you see him?—Down to 1820 or 1821.

Do you remember going to Hornby once, having received a message from Mr. Cowley?—Yes.

For what purpose did you go there?—To estimate a building for the porter's lodge.

Did you go to Hornby with any one?—Yes, with Mr. Dugdale.

Into whose room were you shown there?—Into the room of Mr. Marsden; in the study, I think it was.

Did Marsden speak to you?—Mr. Wright asked us to sit down, and he ordered Marsden out.

What did he say?—He said " You will please to retire."

What did he (Wright) say?—He said, " You will please to retire."

Did he retire?—Yes, he did.

How did Wright say this; was it as if he were asking him to be so good as do so, or was it as if he were ordering him to retire?—He said " You will please to retire, as I have some business with this gentleman."

Did you make your contract with Wright?—We took the size of the building, and we were to hear from him (Wright) in a day or two.

Did you contract for the building?—No, we did not contract.

By GURNEY, B.—Did you do the work?—No, we did not.

By Mr. CRESSWELL.—Were you afterwards at Hornby upon different occasions, and in the neighbourhood?—Yes.

By GURNEY, B.—When was this?—In the year 1815.







By Mr. CRESSWELL.—Were you afterwards doing jobs at Hornby, or in the neighbourhood of Hornby?—Yes.

Did you see Marsden upon those occasions?—Some chance times I happened to meet him, but I seldom went up to the hall; we were chiefly talked to by Mr. Wright.

Did you ever talk to Marsden?—Yes; but I merely passed the compliments of the morning.

Ever anything else?—At one time a Mr. Murray sent for me to take a plan of the church, and Marsden came a good deal to me when we were measuring the church; he wanted to know what we were about, and while we were measuring Hornby chapel to make the plan of it, he talked to us a good deal; he knew Harrison better than me, and he said to him he thought the windows would be better if they both were altered, as they would give more light.

Did he ask any questions about the subject?—No; I passed it over as well as I could, as I saw he was not quite right.

What made you think he was not quite right?—From his expressions.

By GURNEY, B.—Do you remember the expressions?—He thought the windows were not sufficiently large, and that they did not give sufficient light, and I thought they were sufficiently large.

By Mr. CRESSWELL.—Was his personal appearance particular?—It appeared to me he was not quite right; he was far from being that, I thought; I had known him before that time, but not so much as at that time.

Have you ever been working about Hornby Castle, for the Castle?—Yes; my partner, Wallace, did a good deal of work both at Hornby and at Heysham; they made a plan of the chapel.

Did Wright ever speak to you upon the subject?—No, he did not.

Did you ever know Marsden give you or your partner any orders about anything?—No, I did not.

(There was no cross-examination of this witness.)

*John Hall* sworn.—Examined by Mr. ARMSTRONG.—Where do you live now?—At Tatham.

What are you by business?—A sawyer.

Were you, for several years together, employed at Hornby Castle, as a sawyer?—Yes, occasionally.

Within what years?—At intervals between 1813 and 1823.

How long together might you be so employed at any one time?—Perhaps for twelve or eighteen months, more or less.

Had you many opportunities of seeing Mr. Marsden?—I used to see him often.

In your judgment, what kind of a man was he as to mind?—He was only a weak man.

Did you remember upon any occasion filing a saw?—Yes.

Did Marsden come up, when you were engaged in so doing?—Yes.

What did he say to you?—I was filing the fronts of the teeth which makes a girking and squeaking noise, and he asked me, "What tunes could be played upon that instrument;" I told him it was not an instrument for playing upon, but that it was a saw for cutting wood with.

What did he say upon that?—He said, "oh! oh!" and walked away.

What kind of saw was it?—It was a large frame-saw, for two men to work with.

Had you ever seen Marsden exhibit any fear of dogs?—Yes; I once saw him frightened at two dogs.

Do you remember Wright being present upon any occasion when you were sawing, and his seeing Marsden?—Yes.

Did Wright say anything to him in your hearing?—I saw Marsden walking in the garth fields, and he (Wright) came by; and Wright called out, “I say, what are you doing there;” Marsden turned towards him, and Wright called out again, “I say what are you doing there?” and then Marsden walked off.

Cross-examined by the ATTORNEY-GENERAL.—I believe you did not mention this story at York?—I never was asked.

Did you mention it at York?—No, Sir, I was never asked as to it.

I beg to ask you this,—when Marsden spoke to you about the saw, was not that the only time you ever spoke to him in your life, and did you not say so at York; did you say that was the only time you ever talked to him?—Yes, that was the only time he ever spoke to me.

During all the time you ever saw him there?—Yes.

*Joseph Hetherington* sworn.—Examined by Sir JAMES SCARLETT.—Are you a plumber and glazier?—Yes.

You live, I believe, at Garstang?—Yes.

Were you ever employed as an apprentice to Mr. Seward, at Lancaster?—Yes.

Were you ever employed, under him, to do any jobs at Hornby Castle?—Yes.

What was it?—Respecting some water closets, and other repairs.

How long ago was that?—In the year 1811 or 1812, I cannot say which.

Were you at work for some time there?—Perhaps ten days or a fortnight; I cannot say.

Did you see Marsden?—Yes.

Did he come to look on when you were at work?—Yes; he came to speak to the man who was assisting me, and he asked if he had got finished.

Who was that that did so?—Wright.

But I mean, did Marsden come to talk to you?—No; he never came near enough to pass a word.

Did he ever give you any directions?—No, never.

Did Wright come to give directions as to the work?—Yes.

Were there two water-closets, one above and one below?—Yes.

Some of the water, I suppose, came from the one above to the one below?—Yes.

In what state was the work then?—Not in a finished state.

Was the seat and pan put down?—Yes; that was completed.

Was the stucco part of it complete, or the plastering?—No; some parts of it only were complete; there was no door.

Did Wright come to view it?—Yes.

Did the water come in?—Yes.

It seemed to answer, did it?—Yes.

When Wright was there, did you see Marsden?—Yes; he was standing





near, and he spoke to the men ; Wright said, " we will go and look at the other above ;" and he and the man accordingly went above.

When they went above, what did Marsden do?—He took hold of the handle of the water-closet, and pulled it, the same as the others had done, and the water rushed in ; and as soon as he had let go the handle and looked at it he went out, and returned with a piece of paper in his hand, which he tore into pieces ; and then he pulled the handle up again, and put some pieces of paper into it ; and when he saw it turn round again, and the paper also, he smiled at it ; and when it had done running he drew it up again, and put some pieces of paper into it, and laughed again.

Did he appear to be amused with it?—Yes.

How many times did he do this?—Two or three times.

What happened then?—Wright came down after he had done that, and said to him, " what are you doing there?" and he took him by the back of the collar of his coat, and pushed him out before him.

He had asked him first, " what are you doing there?"—Yes; and added, " if he caught him there again, he would take a horse whip to him."

What did Marsden do?—He went away, and we saw no more of him then.

What did Wright say then?—He said that the door was to be fastened up, so that Marsden could not get in. He called to one of the men, to make the door-way up, so that Marsden could not get in again.

When Wright went away, did Marsden come back again?—Yes; in a short time after that he came back again.

Did Wright give any reason, why it should be fastened up ; what did he say—state it all?—He said, that if it were not made up, he was sure that Marsden would come and spoil the closet, or let the whole of the water out of the cistern.

Was the door-way made up?—I cannot say ; we had finished the closet, and therefore my work was done.

By GURNEY, B.—You were the plumber employed on that occasion?—Yes, my lord.

Your work was done?—Yes.

Cross-examined by the ATTORNEY-GENERAL.—Were you examined at York?—No.

Were you there?—No.

*Thomas Procter* sworn. Examined by Mr. CRESSWELL.—You live at Quernmore?—Yes; I do now.

How old are you?—I am in my seventieth year.

Did you know Marsden?—Yes.

How long did you know him?—I have known him by sight, for thirty years.

Were you ever employed in watching upon the moors, or so?—Yes.

Who employed you?—Wright.

Were you ever at the castle?—Many a time.

Did you ever see Marsden walking about?—Yes.

Did he ever ask you any questions about the moors, or the game?—No; never.

Had you a dog with you?—Sometimes I had.

Did he like your dog?—No; he used to keep a stick, and was afraid of its coming near him.

Was he ever afraid of other dogs?—Yes.

What have you done for him upon those occasions?—I had to set the dog away, or a tenant of his set him away.

Do you remember being at a sheep-shearing at Hornby Castle?—Yes.

How long ago was that?—Thirty years ago.

Was Marsden present at a sheep-shearing?—Yes.

Did you dine there?—Yes.

Did Wright dine there also?—Yes.

And Lister.—Yes.

Was there any drinking?—Yes.

Any singing?—Yes.

Who began the singing?—A. Mr. Graham began the singing.

Did you remember Thomas Waller, Mr. Marsden's servant?—Yes, he came in.

Did Marsden come in?—There was a knocking at the door.

And who was it?—It was Marsden. Wright asked Waller, "What yon fool wanted?" There had been a knocking at the door for some time where we were sitting. Wright sent for me to go and see who it was.

And then he asked you what Marsden wanted?—Yes; and he said, "he wanted to come near to us;" and Wright said, "Let him abide where he is;" upon this Lister said, "No, no, let him come in."

Did Waller then go out?—Yes, and brought him in.

After that, did the singing go on?—Yes.

Did Marsden take any part in it?—He began making a noise.

Did Wright say any thing?—He said, "If he did not hold his tongue, he should go out of the room."

Do you remember a man of the name of Robinson?—Yes.

Who is he—was he a clerk to Mr. Wright?—He was at that time.

Have you ever been in Wright's study?—Yes, at different times.

Have you ever been there when he sent for Mr. Marsden?—Yes.

What did he send for him for?—For him to come.

Who went for him?—Benjamin.

What did he want him for?—He said, "you must put your hand to this paper." I did not see what it was.

What did Wright say when that was done?—He said to him, "you may go then."

Did he say, "*then*?"—He did.

Did that happen once, or more than once?—Only once in particular.

Do you remember a boundary-riding at Hornby?—Yes.

That is a riding of the boundaries?—Yes.

When was that?—In 1801.

Did you carry the colours?—Yes, the first day.

Were there two days of it?—There were three days, but I only went the first day.

Do you remember William Edmondson, the Lord of Outhwaite, being there?—Yes, I do.

Does that lordship join the lordship of Hornby?—Yes.

In the evening of the first day, did you return to Hornby from this riding?—Yes.

Was there a roll to be signed?—Yes.

What time of the day was it when you got home?—It might be a little after nine in the evening.

Did Marsden go with you?—No.







When this roll was to be signed, was Marsden there?—No; he was not in the study.

Was he sent for?—Yes.

By GURNEY, B.—Was it Wright's study?—Yes, my lord; and we were in it.

By Mr. CRESSWELL.—Who went for Marsden?—Benjamin Robinson.

Did Robinson bring him with him?—No; he came back and said he could not get him to come.

Whom did he say that to?—He said that to Wright, and Edmondson and me and William Strong was in the study.

What said Wright to that?—He said he would fetch him. He went out to where Benjamin Robinson was, and he had his whip in his hand, but instead of bringing him, he set him a roaring out. I heard him cry out like a child.

Do you mean Marsden?—Yes.

Did Wright come back?—Yes; in a very little bit, because we said "for God Almighty's sake do not meddle with him, we will come to-morrow," and then I stopped all night; Robinson and I were together.

I must not hear what passed between you and Robinson; but did Edmondson come again in the morning?—Yes; and William Strong too.

And signed the roll?—I cannot say as to that, as I did not go with the colours next day.

Cross-examined by the ATTORNEY-GENERAL.—You were examined formerly at York?—Yes.

Do you remember you were particularly examined as to Wright treating Marsden roughly at that dinner?—I was.

Did you then mention a word about the roll?—No; I did not.

Nor about the whip, nor about the crying like a child?—No; I did not; nor did I mention it to any person except my wife.

But you had been examined by somebody previously?—Yes.

By whom?—By Mr. Higgin.

How long before?—I cannot recollect.

Did you keep this back from Mr. Higgin?—Yes; I did.

And you were not asked about it in Court?—It was not likely they should ask me about it, as I never mentioned it.

Did you not know the object was to prove that Wright behaved ill to Marsden?—Yes.

And yet you never mentioned this to Mr. Higgin nor to the Court?—No.

When did you first mention it to Mr. Higgin, after the trial?—I cannot say.

Was it a fortnight or a month before the last trial at Lancaster?—When they subpoenaed me I mentioned it.

To whom did you mention it?—To Mr. Higgin.

And then did you give your own account of it?—Yes; I did; and it was the truth.

Do you mean to say you mentioned this to Higgin about a fortnight or a month before the last trial?—Yes.

Where did Mr. Higgin subpoena you?—Here, in Lancaster, where he lives.

And you said you had something more to tell?—Not before he examined me; before he subpoenaed me.

When he wanted to examine you, you told him the fact?—Yes.

ATTORNEY-GENERAL.—Both William Edmonson and William Strong are dead.

Mr. CRESSWELL.—It is admitted they are both dead, and have been so many years.

*Margaret Pattinson* sworn.—Examined by Mr. STARKIE.—Are you the wife of Paul Pattinson, formerly of Holehead, now at Bentham?—Yes.

What age are you?—I am in my fifty-sixth year.

Were you acquainted with Marsden when you were young?—Yes; from my infancy. I lived in the village of Hornby, and knew him well.

What age were you when you first knew him?—I was ten years old. I knew him at Wennington Hall.

Was that when Mrs. Cookson was living?—Yes.

Did you stay there at any time?—I was a few days there.

In the house were you?—Yes.

Did you dine at the table of Marsden?—Yes.

And Mrs. Cookson and Mr. Wright?—Yes.

And Miss Tatham also?—Yes.

Do you recollect the family removing from Wennington Hall to Hornby Castle?—Yes.

Did your father keep an inn at Hornby at that time?—Yes, the King's Arms, and that was afterwards continued by another man, and then he removed to the Castle Inn; that was in my brother's and my time.

Were you in the habit of seeing Marsden frequently?—Many times.

What was your judgment as to his capacity for business?—I thought he was a very weak man, not capable, as I supposed, for transacting any business.

In your judgment was he capable of giving orders to servants or work-people?—I should think not.

Do you recollect his coming to your father's house once and asking for change?—I do.

Did you go into the room to him?—I did.

What did he say to you?—He wanted change for half-a-guinea, and I took in the change to him. There was half-a-crown and some sixpences, and the rest in shillings.

Did you count it over to him?—Yes, and laid it on the table; I counted it two or three times over to him.

Why did you do it two or three times?—Because he could not get to an end of it; he never finished it. After I had counted it, he tried to do it.

Could he make it out?—No, he could not. He asked me "Was I sure the change was right?" I told him it was, repeatedly.

What did he do with the money?—He went out with it.

Did you see where he went?—I did not see what way he went; but, in a few minutes afterwards, I saw him near the door upon the bridge—perhaps forty or fifty yards from our house.

What was he doing upon the bridge?—He had his face towards the earth, and he had his hands upon the bridge; I supposed what he was doing, but I could not say; I supposed him to be counting the change.

Did he afterwards come back to you?—Yes, he did. He came in and rang the bell again, and I waited upon him.

What did he say to you?—He said, "He would thank me to give the half-guinea back, and for me to take the silver." I did so.





How long ago was this?—It was about the year 1803 or 1804, as nearly as I can recollect.

By GURNEY, B.—What was your father's name?—Warbrick.

By Mr. STARKIE.—Was Marsden able, in your judgment, to count the change?—No, he was not.

What time of day was it, do you think?—It was in the afternoon, so far as I remember.

What time of the afternoon was it, do you think?—I cannot remember.

Did he ever take any particular notice of your dress?—My apron I fancied he noticed. He has taken hold of it at one time.

By the JUDGE.—What sort of apron was it?—A check apron.

By Mr. STARKIE.—What way would he behave in coming to you?—He never took hold of it, but at one time; but I have noticed him, when at the door, stand a length of time, when I was there, and I noticed he gazed in at the door.

Was there any thing that he noticed?—Yes.

By GURNEY, B.—Could you form any sort of judgment as to what he was gazing at?—At the apron I imagined it was. He never took hold of it but once.

By Mr. STARKIE.—When you had on a white apron, how was it then?—Did he pay attention to it then?—I never observed it.

Can you say whether he paid greater attention to the check apron, or the white apron?—To the check apron. I never remember him paying attention to a white apron at all.

Was he of a mild or timid disposition?—Timid.

Have you seen him on the street when there has been any dog there?—Yes.

What did he do?—He dared not pass the door.

What kind of a dog was it?—A terrier.

What size of a dog was it?—It was not a large one.

What would he do when he saw the dog?—He would stand, and the dog would bark at him; but I never saw it run after him, but he waved over it with his stick, and the dog noticed him many and many a time, and I was called in to drive it away, and let Marsden pass.

Has this been frequently done?—Many times; I cannot say how often. Many times.

Did the dog seem to know him at Hornby?—Yes; very well; and I have also seen him afraid of other dogs.

As to pigs, was he ever afraid of them?—Yes; I have seen him afraid of pigs.

Did you ever hear of him transacting any business or giving any orders?—Never.

Was the Castle then the property of Mr. Marsden?—Yes.

With respect to those premises did Marsden ever interfere about them?—Never.

Did Wright interfere about them?—Yes.

When any thing wanted doing, who was applied to?—Mr. Wright. I have seen him among the workmen.

Was Marsden capable of interfering and giving any directions?—No he was not.

Do you recollect Mr. Henry Tatham?—I do; he died there. ;

Did he lodge there?—He lodged over the way and dined with us. He died there also. He dined there daily, in the village.

Did he board with you?—He used only to dine.

Was he in the village long?—Yes.

Has he been in your house when Marsden has come?—When Marsden has passed.

Have you heard him use any expressions when Marsden was there, in his hearing?—No.

Did Mr. Tatham visit at the Castle?—No, not that I ever knew of; I never knew him to be there.

You never knew of his dining at the Castle?—No.

Cross-examined by the ATTORNEY-GENERAL.—Did you ever live in the house?—No.

Did you ever see Marsden transact any business?—By no means.

*Mrs. Margaret Hewitson* sworn. Examined by Mr. ARMSTRONG.—What age are you?—I am fifty-three.

Did you ever live at the Bull's Head inn at Hornby?—Yes.

Is that now the Castle inn?—Yes.

How long is that ago?—In the year 1802.

How long did you live there?—Twelve months.

Do you remember seeing Marsden about the village at that time?—Yes; very well.

What kind of a hat did he use then?—He had a white hat, with green under the side.

Were there any peacocks kept at Hornby Castle at that time you speak of?—Yes.

By GURNEY, B.—At the inn, or at Hornby Castle?—At Hornby Castle.

By Mr. ARMSTRONG.—Were there many of them?—I cannot say how many.

Were there more than one?—Yes; I think so.

Have you ever heard them screaming?—Yes.

Have you ever seen Marsden when the peacocks were screaming?—Yes.

When he heard the peacocks screaming, what did he do?—He took off his hat, and threw it up in the castle gate.

Did he throw it at them?—Yes.

Did he make any noise himself?—He screamed too, as they did, as near as he could.

Do you recollect his ever coming to you, when you were nesping gooseberries?—Yes.

Had you a basin?—Yes.

What did he do?—He took the basin, and ran up to the castle gate with it in his hand.

Did any body follow him?—Yes; Isabella brought him back.

What was her name?—Isabella Gibson ran after him, and brought him back.

Do you remember ever going a message to Hornby Castle?—Yes.

Did you go into the kitchen?—Yes.

Did Marsden come into the kitchen when you were there?—Yes.

Did any of the servants make any remark to him?—Yes; one of the women had a check apron on, and he began gathering it up at the bottom.

Who ordered him to be taken away?—One of the servants said to the footman, take him away, and the footman took him away.

There was no cross-examination of this witness.







*John Herdman* sworn. Examined by Sir JAMES SCARLETT.—Mr. Herdman, did you ever occupy any land of Mr. Marsden's?—Yes.

What farm was it?—Moss-house.

How many years did you occupy it?—Eight years.

By GURNEY, B.—When did the eight years end?—In 1814.

By Sir JAMES SCARLETT.—From 1806 to 1814?—Yes.

What sized farm was it?—Fifty acres.

With whom did you make the bargain?—With Wright.

How near to Hornby Castle is it?—Within three miles and a half.

Did you ever talk to Marsden about it?—No, never.

Did he ever come to you?—I met him on the road, and moved to him.

That is the only conversation you ever had with him?—Yes.

Did he ever come to your farm?—Never.

Your transactions of business were with Wright?—Yes.

Did you often go to Hornby Castle?—Occasionally, when I was sent for by Wright.

Do you remember being in Wright's study, along with Wright and George Smith, his clerk?—Yes.

Had you been sent for then?—Yes.

What business were you sent for?—I do not recollect the business I was upon; I was called on to see Wright before I went home, but I do not recollect the business.

Do you remember Marsden coming into the room when you were there?—Yes.

What happened?—He came in and shut the door after him, and Wright said "What do you want here? we want nothing with you, go out."

Did he go out accordingly?—He did; he went to the door as quick as he could: he opened it and went away.

Did you ever see him transact any business?—Never.

Cross-examined by the ATTORNEY-GENERAL.—How many years ago is this?—I cannot mention the year, but it must have been between 1806 and 1814.

That is eight years?—I cannot tell you the year.

Were they the first or the last?—I cannot say.

You cannot tell whether you had just begun or not?—I think I may have been the third year, but I cannot speak to that.

Were you at York?—No.

Re-examined by Sir J. SCARLETT.—Was there any other occasion when you saw Marsden in Wright's study but that time?—No; there was not.

*Peter Hodgson* sworn. Examined by Mr. CRESSWELL.—Did you ever live in the neighbourhood of Hornby?—Yes.

How long is it since you left that neighbourhood?—It is twelve years ago.

Do you remember Mr. John Marsden?—Yes.

By GURNEY, B.—How long did you live there?—All my life.

By Mr. CRESSWELL.—How old are you?—I believe I am fifty-six.

You remember Marsden a long time then?—Ever since I was four years of age.

Do you remember Tommy Thomson?—Yes; very well.

Do you remember upon one occasion seeing Tommy Thomson with a pie dish?—Yes.

Was Marsden there?—Yes; upon the bridge at Hornby.

How long ago was that?—I really cannot recollect. It might be about twenty or twenty-one years since.

What happened to Tommy Thomson and his pie dish?—There was a hound bitch that set at him upon the bridge, as dogs always kept barking at him; Tommy Thomson used to throw stones at them, and that set them at him. Tommy stood, and then the dogs stood and set up a howling, and Tommy said, “d——n thee and the pie too—take it!” and then he flung down the dish at the bitch, and all that was in it. He then began to fling stones and to take up the pieces of the dish and followed the bitch, and upon this Marsden had taken flight, which the bitch seeing, followed after him; and Tommy seeing this, followed after all, throwing stones and pieces of the pie dish. Marsden ran as fast as he could towards the Castle, and entered the stable, and got into the second story, from the window of which he peeped out two or three times, from behind a deal post, to see what had happened, and at length when Tommy had got quit of the bitch, Marsden came out and went up within the Castle gate.

Did you ever see Marsden out hunting?—Yes.

What sort of horse did he use to ride?—A bay mare with crop ears and a switch tail.

How long might this be ago?—Between thirty-five and thirty-six years ago.

A few years before he came to Hornby?—Yes.

Were there many gentlemen out with him?—Yes: many.

Did you ever hear him say anything about his mare?—Yes.

What did he say about her?—He wondered they did not breed all crop ones, as his was very quiet.

Did the gentlemen say anything to him in answer?—No; they all smiled at him.

Cross-examined by the ATTORNEY-GENERAL.—What are you?—I have been an upholsterer at Preston.

Are you out of employment?—No.

Has that been your business all your life?—No; I have been employed about the steam-looms, and I have been six years in Lancaster.

What is your occupation—are you a labourer, or have you learned any business?—No particular business. I have been under Mr. Marsden for fifteen or sixteen years; I worked for him as a labourer at the quarry.

It is a clear kind of stone?—Yes.

*Matthew Jenkinson* sworn. Examined by Mr. STARKIE.—Were you ever employed as a mason, in building Hornby Chapel?—Yes; in 1817.

When you were employed there, do you recollect Marsden coming with a spy-glass in his hand?—Yes; he was then coming down from the Castle.

What did he do with it?—He was coming down by the joiner's shop, and he stopped there, and he took a view at the church building there. He looked up through the glass towards the chapel and the persons working on the scaffold, and John Holden took up a piece of wood and pointed it from his shoulder like a gun, at John Marsden. Marsden looked about him sharply, and seeing that the coast was all clear, he ran up to the Castle very quickly, and we never saw any more of him that day.

Have you seen him go a hunting?—Yes; once.

When was that?—About thirty-seven or thirty-eight years ago.





Did you ever see him canter or gallop?—Yes; I did.

By GURNEY, B.—What did he do?—He cantered.

By SIR JAMES SCARLETT.—Was that up hill or down, or was it on level ground?—It was up hill.

Have you ever seen him do that upon level ground?—No; I never did.

Did you live near Hornby bridge?—Yes, close to it.

Have you seen your wife wear a check apron?—Yes; I have.

Have you seen Marsden near when that was the case?—Yes.

What has he been doing?—I have seen him looking in at the window at my wife, then walking up and down, and then looking in two or three times; I saw him standing four or five yards off from the door, at three different times.

How long might he stay there during this?—Sometimes ten minutes or a quarter of an hour.

Did your wife see him?—Yes.

How did she take it?—She got up once, and she wanted to know who this man was; she said nothing, but came up and put the door to.

Did you see Marsden so often, as to form your judgment relative to his capacity?—I think he was a very weak man indeed.

Was he capable of giving any orders about business?—I think he was not.

(There was no cross-examination of this witness.)

*Richard Eadon* sworn. Examined by Mr. ARMSTRONG.—What are you, Eadon?—A husbandman.

Do you remember some years ago being near Hornby Castle when there was a carrier's cart going by?—It was not near Hornby Castle, it was between Hornby and the water, going across, about half-a-quarter of a mile.

Had you a cart with you?—It was I that had it, I had two. I was then servant to a carrier.

Was there a dog under your cart?—Yes; I had a mastiff dog chained under the first cart.

When you met Marsden?—Yes.

Did the dog bark at him?—Yes; he frequently barked when any body passed.

As he was chained under the cart?—Yes.

Did Marsden appear alarmed?—Yes, very much.

What did he do?—He ran across into a ditch.

What else did he do?—He took a piece of money out of his pocket.

What did he do with it?—He pitched it towards the dog that was under the cart.

He threw it where the dog was?—Yes.

Was his servant near him at the time?—There was a man behind him, at two or three hundred yards distance, and he came up.

Was he his servant?—I do not know.

What did he do with the money?—He gave it to the man who came up afterwards.

What became of Marsden?—He assisted in getting him out of the ditch, and he trembled terribly.

There was no cross-examination of this witness.

*John Metcalfe* sworn. Examined by Sir J. SCARLETT.—Mr. Metcalfe, I believe you are owner of an estate in the county of York?—Yes.

Does the Weathercote Cave estate belong to you?—Yes.

Sir J. SCARLETT.—That is the famous waterfall, near Ingleton.

Was it your father's property in that neighbourhood?—Yes.

Where do you reside now?—At Weathercote.

Did you know the late Reverend Henry Ellershaw?—Yes; very well.

Was he the clergyman and schoolmaster at Chapel-le-dale?—Yes.

How far is that from your house?—Two or three hundred yards.

Was he the clergyman of that chapel?—Yes.

Was Ellershaw's house near your house?—It was about a quarter of a mile off.

Did Mr. Ellershaw use to visit at your father's house?—He used to come frequently.

Was it usual some years ago in that neighbourhood for the neighbours to come out and play at cards at Christmas time?—Yes; it was.

Did Mr. Ellershaw use to come to your father's house to play?—Yes; about three weeks before Christmas.

Do you remember his bringing Mr. Marsden with him once?—Yes.

Did you know Mr. Marsden before?—No.

How long is that ago?—Thirty-seven or thirty-eight years ago.

What age might you be then?—Thirteen or fourteen years of age.

Did any of the party sit down to play at whist in the evening?—Yes.

Who sat down to play at whist?—There was my father and Mr. Ellershaw.

Was your grandmother alive then?—Yes.

Did she play?—No; my grandmother sent in for two neighbours.

Was Ellershaw fond of whist himself?—Yes; at that time.

And she sent in for two neighbours?—Yes.

Did they sit down to play with your father and Ellershaw?—Yes.

Was Marsden set to play at anything?—Yes.

By GURNEY, B.—Was this said in Marsden's hearing?—Yes; he was by; he was in the parlour.

By Sir JAMES SCARLETT.—What did your grandmother say—You say your father and your grandmother, and Ellershaw and another, proposed to play at whist, and she proposed to send out for two neighbours; tell us what she said in Marsden's presence?—She said, "you must get two or three other boys to come and play at some game with Marsden; Mr. Ellershaw says, he (Marsden) cannot play at whist."

Did Marsden play at anything with the boys?—Yes; at lant.

Is that the same as loo?—Yes.

How many were there of the little people that came to play?—My brother and me, and our servant man, Brooks.

And did Marsden play with you and your brother, and the other boys, and with Brooks?—Yes.

In the same room?—Yes.

What had Brooks, a servant man, to do with it?—He was the oldest man, and he decided between the boys and Marsden.

Were there any losses besides what you and your brother sustained?—I cannot say whether the old man was there or not.







But Brooks being the oldest of the party, decided the tricks?—Yes.

When Marsden won a trick did Brooks decide that?—Yes; he pointed and said, that was Marsden's trick.

And then he said the same thing whenever you or your brother played and won?—Yes.

Did you play for money?—Yes; we laid down a penny.

What was the money; a sovereign or a penny?—We put down one penny halfpenny when we won; there were three tricks, and those who won laid down the halfpence.

Who decided it?—Brooks.

Did Mr. Ellershaw speak to Mr. Marsden, when he was playing at lant with you?—He used to ask the point he came upon.

Do you remember his answers?—He would say, "Oh! very well, Sir."

Did he come on well?—I believe he lost his copper.

Did he get any more money?—Yes; I recollect Ellershaw handed him once a sixpence.

Did you go on with the game?—No; that was when we had played as long as we could at loo, he handed Marsden sixpence.

Did you see the same gentleman at Lister's, at Belle-Hill?—Yes.

Was he ever in the house with him?—No; only residing by it as you know.

I do not know it indeed.

Well, there is a sham window towards Clapham——

What was he doing?—He was fiddling by the window.

What sort of way was he doing that?—He was moving his arms; I was going by on horseback.

Was he making faces?—He appeared to be rather winking.

That was the same gentleman that played with the children at lant?—Yes.

Cross-examined by the ATTORNEY-GENERAL.—I find you have some property?—Yes; pray have you made a will?—I cannot say as to that.

By Sir JAMES SCARLETT.—Mind and do not let another man make it for you.

*John Brook* sworn.—Examined by Mr. CRESSWELL.—How old are you?—Seventy-five.

Did you ever live at Mr. Metcalfe's, of Weathercote?—Yes; for six years down to this.

Do you remember Mr. Ellershaw?—Yes.

Did he ever come to visit Mr. Metcalfe and his wife?—Yes.

Did Marsden ever come with him?—Yes; one evening.

Was there any card playing that evening?—Yes.

Did Marsden play cards?—Yes.

Who with?—There were two, me and Jones.

And who else?—I played with him; I helped them.

Did Mr. Ellershaw play cards?—He played at whist.

What did you play at?—At lant.

How old were the lads?—The lads were ten and twelve years old.

Who managed the lant table?—(No answer.)

The ATTORNEY-GENERAL.—Ask him who was the croupier; you had better ask him that.

*Witness*.—I helped them.

Who decided, as to who won the tricks, and who was to pay the money; was there any money put down on the table?—Yes; three halfpence; it was halfpenny lant.

Who distributed the money as the tricks were taken?—I put it to them when they won the trick, and told them what they had to take up.

Did you put that to Marsden the same way as you did to the lads?—Yes; I told him when he had anything to take up, and what he might have to put down.

Did Mr. Marsden appear to understand the same?—Not very well.

So you helped them?—Yes.

(There was no cross-examination of this witness.)

*Mary Shaw* sworn.—Examined by Mr. STARKIE.—What age are you, Mrs. Shaw?—Fifty-two.

Did you live at Hornby, when young?—Yes.

Do you recollect the time when Marsden came to reside at Hornby Castle?—Yes.

Did you know him when at Wennington Hall, before that?—Yes, for six or seven years before that.

By GURNEY, B.—What year were you born in?—I am fifty-two; I was born in 1782; I was fifty-two the 25th of last month; I knew him a few years before he came to live at Hornby Castle; I can recollect since I was four years of age.

By Mr. STARKIE.—Did your mother live near the Castle gate, at Hornby?—Yes.

Was Mrs. Warbrick your aunt?—Yes.

She kept an inn at Hornby, I believe?—Yes, she did.

Do you recollect having seen Marsden frequently coming past your mother's?—Yes, frequently, four or five times a day, and sometimes more.

Had she a little dog at that time?—Yes, a very small black and white one; only a fancy dog; a lady's dog; a lap-dog only; when Marsden used to hit his stick upon the paving stones, it used to bark.

How did he get past the dog?—He used to call my father to call his daughter, to hold the little dog till he got passed over, and sometimes he would give me something; a sixpence, and sometimes a shilling.

Did he put the sixpence or shilling into your hand?—Yes, and walked by the houses, and then he said, "good girl, I give you that money, and I will get it when I come back;" I never got anything given by him; I gave it him when he came back.

By GURNEY, B.—So that you never had it finally?—No.

By Mr. STARKIE.—Now the time he came again, was the money given to you and taken back again, when he got past the dog?—Yes.

You have seen visitors going into the Castle?—Yes.

And throwing out money among the children?—Yes.

Has Marsden been there at any time when that was going on?—He once took up the money among the scuffling, and was going to put it into his waistcoat pocket, and Wright said, you must not do so, you must throw it down again.

Did he throw it down?—Yes.

Where was the manor court dinner held?—It was held at Mrs. Warbrick's.





Have you seen Mr. Wright and Mr. Marsden dine at Hornby, at the manor court dinner?—Yes.

Have you heard Wright say any thing to Marsden?—I heard him say, you may go; we can do without you; he said, you must go, Marsden, we have done with you.

What was it; what did he say?—"You may go."

How soon was that after dinner?—Perhaps an hour after dinner.

By GURNEY, B.—How long ago is this?—Forty-six years ago, or better; one does not keep these things in one's mind; I was not much more than six years old; I was only a girl then.

By Mr. STARKIE.—Was that at Wennington Hall or Hornby?—At Hornby.

Down to what time were those dinners continued?—I only remember that one particularly; to say more than that I cannot.

Did your father make flies for fishing?—Yes.

Have you been there when Marsden came to your father's?—I was always at home till I was nineteen years of age.

What did Marsden come to your house for?—He called to ask my father to dress some flies, and my father asked, what kind of fly will suit for you? Marsden said, any kind of one will do; it may be red, black, or green.

Did he ever get any flies from your father?—No, he never did.

Did he come once, or more than once?—At different times.

You say you saw Mr. Marsden very frequently?—Yes, six or seven times a day.

What kind of a man was he, according to your judgment?—He was a man of this kind,—that the least children in the street knew he was not right.

But, as to your judgment?—If I was to give you my judgment, I think if I were to say he was right I must tell you a falsity.

What was your judgment?—I should think he was not a man to do any business in the least,—not in the least, Sir.

(There was not any cross-examination of this witness.)

*James Millington* sworn.—Examined by Mr. ARMSTRONG.—What are you, Mr. Millington?—A general contractor.

Did you, some years ago, live at Tewit-Field?—Yes.

As a lime burner?—Yes.

Near Burton, on the north road?—Yes.

Did you supply Mr. Wright with lime and slates?—Yes.

Do you remember going to Hornby Castle, to settle your account for lime?—Yes.

What was the amount of your bill?—£200. or thereabouts.

I believe Wright and you had some dispute about the settlement of it?—Yes.

Did you stay and dine at the castle?—I did.

Who dined at the table?—Wright and Mr. Marsden.

And nobody else?—Nobody else.

In the course of the dinner did Marsden do any thing that Wright took notice of?—I suppose he did, but I did not see what he did.

In what manner did Wright notice it,—what did he say?—In a very

cross humour; he told him if he could not behave better he must leave the room, or he had better leave the room; I do not remember the words well.

Upon this, what did Marsden do?—He got up, and left the room.

By GURNEY, B.—How long was this ago?—I believe it was in the year 1817; I am not quite sure.

By Mr. ARMSTRONG.—Was the dinner over then?—No.

Did Mr. Marsden return to his dinner?—No.

Did he return after dinner?—No, not that I know of.

Not while you stayed?—No.

Did Mr. Wright and you have your bottle of wine?—Yes.

And he settled your business, and gave you a check?—Yes.

Was that the only time you had been in company with Marsden?—Yes.

You had seen him often?—Yes.

Cross-examined by the ATTORNEY-GENERAL.—What was that dispute about between you and Wright that was settled?—He wanted first to take off £9. and I consented to £5. and he paid it; I lost £5.

By GURNEY, B.—You abated £5. off your bill?—Yes.

By the ATTORNEY-GENERAL.—Was it in 1817 or 1814?—It was more than 1814, but it was not 1818.

Do you mean it was since the year 1814?—I do.

And longer ago than 1818?—It was before 1818, and after 1814.

You were at Hornby?—No.

By GURNEY, B.—Mr. Millington, what did you supply this lime for?—For an allotment on the moor, but I never saw the allotment that I know of; it was to be laid upon the land.

Did you receive the order from Wright personally?—No, I did not.

Was it by letter?—No; I think I received the order from Mr. Holme.

*John Armitstead* sworn.—Examined by SIR JAMES SCARLETT.—How old are you?—I am fifty-four.

Did your father live near Wennington?—In the parish of Melling.

Do you remember Mr. Marsden when you were a young boy?—Yes.

Going a-hunting?—Yes.

Used you to go with the hounds?—Yes, sometimes.

Did you go on foot?—Yes.

Who used to ride with Marsden?—Thomas Waller.

Do you remember Thomas Waller going into his service?—Yes.

He used to ride with him?—Yes.

Did Marsden ride with the other gentlemen?—No; he rode with Waller.

By GURNEY, B.—And not with the other gentlemen?—No.

By SIR JAMES SCARLETT.—When you have seen the other gentlemen go over a fence, have you seen Marsden with his man Waller?—Yes; he said to Waller, “pull down the hedge, and I will leap over it.”

That was the hedge the other gentlemen had leaped over?—Yes.

Was the hedge pulled down?—Yes, the boys pulled it down.

And then he rode through it?—Yes, with the cropt mare.

Did she leap?—She used to make a kind of a click with her hind leg, and get over the sticks.

What did he say?—He said, “is not that very well done.”







Do you recollect that several times?—Once in particular I helped to pull the gap down.

Have you seen other people pulling a gap down for him?—Yes.

Have you known on other occasions, when Waller was with his master, when he left the hounds?—Yes, in a field just beyond Melling; Waller left him when a hare got up.

What happened to Mr. Marsden then?—He rode about the field; it was a hilly field: he used to gallop up the hill, and he came down as easy as he could.

How did he get out of the field?—He tried about, and could not find the gate; he went two or three times round.

Did he then go out at the gate?—Yes.

What did some of the boys do?—We pointed out to him the gate that would lead him out.

Did that take him out of the field?—Yes, close to the high road.

Did Wright use to hunt?—Yes.

Did he ride with Marsden or with the other gentlemen?—I never saw him ride with Marsden.

Did you ever take any notice whether Marsden had any fear of dogs?—Yes, he was very much afraid of dogs.

Was he afraid of the harriers?—I do not know; he never came very near to the hounds when they were out.

Had your father a black cur dog?—Yes, a big black cur dog.

Did Marsden sometimes pass by your father's house?—Yes, very frequently when he lived at Wennington and Hornby Castle.

How far was your house from Wennington Hall?—Between Hornby Castle and Wennington Hall, about a mile and a half off each.

What did he use to do when you came with the black dog?—He was afraid of him, and he crept to the other side.

Was he upon the foss?—Yes.

Do you remember his saying any thing when he was near your father's house?—Yes, I was once one hundred yards off from the house; I was on the other side of the wall, and I looked over, and saw Marsden with a stick in his hand; he was saying to himself, "you black dog, if you be out upon me, I shall give you a good hiding."

What happened?—The dog came out as usual on the top of the wall, and barked.

What did Marsden do?—He ran back.

What became of the dog at last?—The dog was made off with upon some occasion; I believe he was hanged.

Was your mother there when this happened?—Yes, my mother called the dog in at first.

Did you take any part of the land that belonged to Marsden?—Only of Wright; it belonged to Marsden when he was at Wennington Hall; I took it of Robert Hesketh.

To whom did you pay your rent?—To Mr. Wright.

Did you talk about it to Marsden?—No.

Used you to pay at Hornby?—Yes.

After he went to live at Hornby Castle, you went there occasionally?—Yes, I have paid him there occasionally, and dined there at that time.

Did Marsden ever appear to you to be capable of any business?—No, I did not think him so.

Cross-examined by the ATTORNEY-GENERAL.—How long is that ago, since he got a stick to beat off the black dog?—It was about fourteen years ago; I was born in 1780.

That is forty years ago?—Yes.

The dog is dead?—He was hanged, Sir.

*Robert Barton* sworn.---Examined by Mr. CRESSWELL.---How old are you?—Forty-seven years of age.

Did you ever go to live at Whittington Hall?—Yes.

With Mr. Thornton?—Yes.

How long is it ago?—Twelve years and upwards.

From 1810 to 1812?—Yes.

Did Wright ever come to Whittington Hall?—Yes; once.

Have you ever been at Hornby?—Yes.

Do you know the joiner's shop?—Yes.

You have been at Hornby Castle?—Yes.

Do you remember ever seeing Marsden in the joiner's shop?—Yes.

When he was there was anything said about Wright coming?—Yes.

Who told him?—One of the joiners.

What said Marsden?—He said, let me get at the back of the table, and cover my head.

Did he get in at the back of the table?—Yes.

What did the men do?—They covered him up with shavings.

Did Wright come?—Yes; he just came to the door.

What became of Marsden?—They let him out again.

Did he seem much frightened?—Yes.

By the ATTORNEY-GENERAL.—Were you at York on the former trial?—No.

*Mrs. Elizabeth Kitson* sworn.—Examined by Mr. STARKIE.—What age are you?—Seventy-seven.

Did your husband farm the Hornby Castle farm?—Yes.

Was that before Marsden removed from Wennington?—Yes.

Was Wright a partner with him in the farm, at any time?—Yes; at first, when they took it, Wright joined him in it.

He afterwards withdrew?—Yes; a year after.

Do you recollect Marsden removing to Hornby Castle?—Yes.

Did you and your husband live near Hornby, at that time?—Yes; near the Castle gate.

Were you and your husband frequently at the Castle?—Yes; very often.

On friendly terms with Mr. Wright?—Yes.

Do you recollect Mr. Henry Tatham?—Yes.

Did he go with Marsden to the Castle?—No, he did not.

He lived at Hornby?—Yes.

Did you ever see him at the Castle?—No, I never did.

Did your husband and you often drink tea and sup at the Castle?—Yes.

With Mr. and Mrs. Wright, and Mr. Marsden?—Yes.

Had you ever any conversation with Marsden about the business of your farm?—No.

Your farm was close adjoining the Castle?—Yes.

Did you or he ever say anything about the rent?—No, he never interfered.





Did you ever play at cards at the castle, in the evening?—Yes.

What was the game?—Commerce.

Did Marsden play with you?—Yes.

Did he count, or try to count?—He could not count but to seven or eight, and then he had to go back again.

Did he ever go beyond that?—No, I never heard him go beyond that.

What was your opinion of his judgment?—We always looked upon him as being quite silly.

Could he play himself, at cards?—There was not much playing at cards. He would have gotten all of a suit if he could.

The ATTORNEY-GENERAL.—I suppose that is the game of commerce?

Did you ever know him, upon the farm, looking at the improvements made?—No; never.

Did you ever see him meet any dog or pig?—Yes.

Which?—Both.

Well, how has he behaved—what has he done?—He has stopped, and I used to send my children out to take him past.

Did they take him past?—Yes.

Have you seen them take him past?—Yes; I used to stand at the door, and watch them; and if they could not do it, I should have done it. I stood to see how they got him past, and if they could not do it, I should have done it.

Did you see Wright and Marsden much together?—Yes; when I was there.

Did Marsden appear to be in fear of any one?—Yes.

Of whom?—Of Mr. Wright.

Who acted as master?—Mr. Wright.

Did you ever see Marsden acting as master, at all, at the castle?—No.

When you have been at supper, have you observed in what way Wright spoke to Marsden, in conversation?—Nothing in particular: he only conversed with him.

Now, what have you heard—any particular expression that Wright has used?—Once, Sir, we should have fancied Marsden to have played the fiddle, and he rather made an objection, saying, we must ask Mr. Wright.

Well, go on?—And Wright said, “Am I to be dictated to by you?”

In what manner was that said?—He quite set himself up.

Did Marsden say any thing when Wright said that?—No; there was nothing said, but all dancing was dropped; we had neither dancing nor cards.

You and your husband went frequently to the castle—by whom were you invited?—By Mr. Wright.

Did you hear Marsden say much in company?—No.

Did he say more when Wright was present or when he was not present?—More when he was away.

Did you ever hear Wright say any thing to Marsden about going to bed?—No.

Have you heard any other expression you can recollect, besides what you have told us?—No.

(There was no cross-examination of this witness.)

*Mr. John Winder* sworn. Examined by Mr. ARMSTRONG.—You are a dancing-master?—Yes.

Did you know the late Mr. Marsden?—Yes.

Did you teach Mr. Procter's scholars dancing, at Hornby?—Yes, for several years.

In what room were the scholars assembled for dancing?—At the Castle inn.

Used Marsden to come down to see them?—Very frequently.

You play on the violin?—Yes; I do.

Both by notes and by ear?—I play by note; I can play by memory afterwards.

Did Mr. Marsden ever ask you to come to look at his violin?—Yes.

Do you understand music?—Yes, I expect I do; I played the second fiddle to Mr. Yaniewicz.

Did Marsden play?—Yes; he has asked me to play for him, but never with him.

Did he ask you to play any particular tune?—Dainty Davie; that was his favourite.

What did he say about it?—He used to say, “now, Mr. Winder, did you ever hear such a piece of music in your life; is it not the finest tune you ever heard played;” and I used to say, just as he said, “yes, it is very good music; it is a very good tune.”

Did he ever try to play it himself in your hearing?—No; he never got through it; I used to tell him his fiddle was not well tuned.

Could he tune it himself?—No, he could not; I tuned it for him different times.

Did you ever dine at Hornby Castle?—Yes.

Who invited you?—Mr. Wright.

Did Marsden dine at the table?—Yes.

Did you ever want to borrow a bass viol of Mr. Marsden?—Yes, I had occasion one time to ask him for it.

Was Wright present in the room when you asked?—He was not; he was in the hall.

Did you ask Mr. Marsden?—He said I might have it; I was going to finish the young gentlemen; I was going to have a ball.

Did you hear any thing pass between Wright and Marsden?—Nothing particular; only after I stopped some time I wanted to be going; I was much fatigued, and expected some music from Lancaster, and he seemed not to be going to get the viol; I asked one of the servants to go for Mr. Wright; he came, and I told him I was come for the bass violin, and he said to Marsden, “Why do not you go and fetch it.”

Did Marsden go and fetch it?—He did fetch it directly.

In your judgment, did Marsden know any thing of music?—Very little, I am sure.

Cross-examined by the ATTORNEY-GENERAL.—Did you ever see him write music?—No, never.

And never saw him play from any manuscript music?—No.

Only “Dainty Davie?”—He never got beyond that music.

Do you know Mr. Howson, of Giggleswick?—Yes.

Did you never tell him that you had seen Mr. Marsden copy music?—No, I never did.

*Mrs. Greene Bradley* sworn.—Examined by Sir JAMES SCARLETT.—*Mrs. Bradley*, you are the wife of Mr. Greene Bradley, a gentleman of the bar?—Yes.







You reside in a house near Lancaster?—Yes.

Have you had any opportunities of seeing Mr. Marsden?—Yes.

Several times?—I think I may have seen him half-a-dozen times.

Do you remember going to call at Hornby Castle about a year before his death?—Yes, I do.

Who accompanied you?—My mother accompanied me.

Did you call in the morning?—Yes, I did.

You remember the circumstance of being invited to look at the hot-houses?—Perfectly.

Did Marsden accompany you to the hot-houses?—Yes.

Were Mr. and Mrs. Wright of the party?—Mr. Wright and the Misses Wright.

Did you and Marsden go first?—We did.

Whilst you were in the hot-houses, do you remember any plants you saw that you admired?—Yes.

Did you state to Marsden your praise of them?—Yes; I praised them to Marsden; I was there a few minutes before the rest of the party came up.

What did he say?—He said he knew very little about plants; he said “take any one you like, Mrs. Bradley; take any one you like, ma’am.”

Do you remember Wright coming up?—Yes.

Had Marsden taken any out, or had he taken any out before Wright came up?—I had merely looked at some, and Marsden said he did not understand much of the plant; he had not separated any.

Were you holding that conversation with him when Wright came up?—I was.

Did Wright hear him making you an offer to take which you liked?—No; but when Wright came in, I said to him “Mr. Marsden has been so kind as say I might take any plant I like.”

What did Wright say?—He said, “has he indeed; they are none of his to give.”

Did he address himself to Marsden?—No; he was not addressing himself to Marsden; he said, “a pretty thing, indeed, for you to give them; they are none of yours, Mr. Marsden;” he then proceeded to tell me he paid the rent for the glass of all the hot-houses.

That he (Wright) paid rent for all the place?—Yes.

In what manner did Marsden appear then?—He looked dejected, and shortly after he went out, or slunk, or went off, quietly out of the hot-house; he did not speak one word more.

Now, have the goodness to tell us only what passed in presence of Marsden; any thing you said to Wright?—I think Wright was very much ruffled at the time; he was very angry at the time; he had lost all self-possession; the two Misses Wright heard it.

By GURNEY, B—Was Marsden so near that he could have heard it?—I cannot say exactly that he was present. Seeing Mr. Marsden so much dejected, I felt distressed about it; I said, “I am afraid the old gentleman is offended;” I said this to Miss Wright.

What was her answer?—“Not he—he is not offended, never mind him.”

When you went back into the house afterwards, do you remember any proposal being made; any conversation about music?—Yes.

When you got back to the house?—Yes, but not immediately.

Was Marsden in the company?—Yes; it was after he came back to

the drawing-room, I asked him if he had been taking a long walk, and he said, "No, I came back to the house."

Was anything said in his presence about his organ?—He knew it was the subject of conversation, there was a piano-forte in the room; I asked Mr. Marsden if he was partial to music, he said, "he did not play on the violin now, he played on the organ."

Was it proposed that you should hear the organ?—Yes; he was there a few minutes before me.

Is it a finger and a barrel organ?—Yes.

What sort of organ was it?—A barrel organ and hand organ too.

You understand music?—Yes.

I would ask you, he who winds the hand of a barrel organ must do it equably?—Yes.

If he is at all irregular, he is out of time?—Yes.

He makes nonsense of it?—Yes.

And those are set at certain distances so as to keep the time?—Yes; and certainly, if not played equably, it would destroy the time.

Did he try to play with the handle?—He had to set the tunes, and he could not, but he got Miss Dorothy Wright to do it for him; he tried to turn the handle, and he did it irregularly without the slightest knowledge of what he was about.

Did he make nonsense of it?—I thought I never heard time and tune so much at variance.

Perhaps you will allow me to ask you if a barrel organ be played exactly, the time is exact?—Yes, I think so.

If it be moved with any inequality, so as to alter the time, it becomes disagreeable, does it not?—Yes, certainly.

How long did he continue to play in this way?—We did not stay a great while; it was too imperfect a performance; we were anxious to leave it.

You went down stairs?—Yes.

Did he follow?—No, he did not; I heard the sound of the organ continuing; I asked if that was Mr. Marsden playing the organ and Mrs. Wright said yes.

By GURNEY, B.—Was Mr. Wright there?—I do not know that he was, but Mrs. and Miss Wright were; it continued playing in the same bad manner. I expressed myself surprised at his playing so long, as we derived so little satisfaction from it.

By Sir JAMES SCARLETT.—Did you stay half an hour, or more than an hour?—Yes; more than an hour.

And you heard the organ played for more than an hour with the same imperfect execution?—Yes.

You had seen him several times before, you say; from the opportunities you had of seeing him, could you conceive him to be a person capable of rational conversation?—I did not think so.

Or capable of transacting any affair of business?—Not from the knowledge I had of him.

Did you hear some letters read here, purporting to be written by him?—Yes.

Should you have thought him, from what you observed of his conversation, capable of a rational correspondence?—I did not think he was from the time I saw him.





Did you attend to the letters?—I heard them all read.

Some were respecting politics?—Yes.

And some as to the value of his living; should you think him capable of understanding any of those subjects?—I should not think he was.

Cross-examined by the ATTORNEY-GENERAL.—You thought he could not carry on any correspondence at all?—I should think not, without assistance; I did not think him capable.

How often have you seen him?—I cannot say exactly.

About how many times?—Perhaps I may say seven or eight times; I cannot say exactly the number of times.

In what different places have you seen him?—Once at my own house.

I presume he was there on your husband's invitation?—He called there.

How long did you see him then?—He remained more than an hour.

Was any body with him?—He came in a gig.

Was there any body with him?—No; he came to pay a morning visit.

And stayed an hour?—Yes.

Did you ever see him at your own house on any other occasion?—I think he once came with Wright to dinner.

Give me as nearly as you can the date of the morning call; how long was it before he died?—The first time he called was in 1821.

After you came to live in the neighbourhood here?—Yes; soon after.

He came in his gig to pay a morning visit?—Yes.

He came alone and staid an hour?—Yes.

Was that the first time you had ever seen him?—Yes; I think it was.

You understood that visit to be from a gentleman in the neighbourhood?—Yes; I considered him as a gentleman, certainly.

You considered that as a visit of a gentleman to a stranger coming into the neighbourhood?—Yes; certainly I did.

How soon afterwards did he dine with you?—I cannot say, exactly.

What year was it?—I cannot say whether it was the same year; I cannot recollect; I only recollect their coming together.

Shortly after, or how long after?—I cannot recollect.

The following year, or the same year?—I cannot say; it was soon, but I cannot say.

On your husband's invitation did he come to dinner?—Of course.

Was there a party?—Yes.

Who were there on that occasion?—One or two families in the neighbourhood; Mr. and Mrs. Eidsforth were one; they were persons who were known to Mr. and Mrs. Wright. We generally made the parties of those who were known to each other. Mr. and Mrs. Sharp, the attorney, in Lancaster—they were great friends of Mr. and Mrs. Wright's.

Do you recollect any other persons that were there?—I think Mr. and Mrs. Butler; I think they were also neighbours.

Is that Mr. Butler, the clergyman?—Yes.

Do you remember any other persons that were there?—I do not remember.

Were you ever dining at Hornby Castle?—Yes.

How often?—Four or five times and more.

Did you go with your husband to dinner there four or five times?—My husband was not always with me; I went to see the Misses Wright.

I speak on occasions when you went to dine there?—Yes; I mentioned before, that I went to dine there.

How often?—I cannot exactly say.

You only knew Mr. Marsden from 1821, and he died in 1826; did you dine there once a year, or oftener, or not so often as once a year, after you became acquainted with him?—It was during the summer; I might have dined there twice a year.

Did you meet parties there?—I have always met Mr. Bleasdale.

Who else have you met there?—I do not recollect any particular party; I never met any party but a family party.

That is the very thing I want to know; did you go and dine there with your husband; just with the family?—I think so; there might have been others.

It was not a set dinner?—I did not consider it a set dinner.

A mere friendly dinner—a mere social neighbourly dinner?—It was not a set dinner.

Was it a friendly social dinner?—They were always extremely friendly.

Did you go and visit, as one neighbour might do to another?—Yes.

How far did you live from Hornby Castle?—About six miles.

Is Slyne on the road between Lancaster and Hornby Castle?—Yes, nearly.

Mr. Bradley used to go and stay there?—He used to go occasionally in the shooting season.

And staid there some days together?—No, I do not know that he ever did; but Mr. Bradley is in Court, and he can answer that better than I can.

I have not the privilege of asking him any of those questions—Do you remember his staying there all night?—I do not recollect his doing so.

Did you know any thing of Mr. Greene, your husband's uncle?—No.

Do you know that Mr. Greene, the member for Lancaster, is your husband's cousin?—Yes, he is.

But Mr. Greene, his father, you never knew?—No.

Re-examined by Sir JAMES SCARLETT.—Were you and the Misses Wright very well acquainted?—Yes.

Are they intelligent young women?—I think they are very intelligent and well educated, and that drew me more to the house.

Was it not Marsden's society that drew you there?—No, he was never one that could be conversed with; I sat next him, and he conducted himself shyly at the table, with a good deal of politeness. In order to induce him to enter into some conversation, as I did not consider his intellect very perfect, I asked him if he had been to London, and to the theatres, and exhibition, and he said, "I saw the king, ma'am—I saw the king!"—in that absurd way.

The ATTORNEY-GENERAL.—I do not think that this arises out of the cross-examination.

GURNEY, B.—Mrs. Bradley herself suggested it, as she thought it was thrown out that there was not conversation enough to form a judgment.

Was it as well, from the conversation you had with him—(Interrupted.)

GURNEY, B.—It shews what it was that drew her there.

The ATTORNEY-GENERAL.—But here is a particular conversation, that throws a difficulty in the case.

GURNEY, B.—I will put any question you please afterwards.

The ATTORNEY-GENERAL.—It is quite in vain to put all the questions through your lordship.







Was the judgment of his capacity you have given us formed as well on seeing him at Hornby Castle, at the times you dined there, as on the matter I asked you at first?—Yes; it was.

By the ATTORNEY-GENERAL.—You did ask him if he had been to London and at the theatre?—I did ask him that.

On what occasion?—On the very morning of the musical conversation; it was that very morning.

Was your question, whether he had ever been to London, or lately to London?—Yes, I asked him what he had seen, and whether he had been at the theatre, or exhibition, and his only answer was, “I saw the king, ma’m—I saw the king and queen!”

Did you ask him whether he saw the king and queen at the theatre or not?—No.

By GURNEY, B.—You asked him these questions, to make some conversation?—Yes, it was at Heysham.

By GURNEY, B.—At Wright’s?—Yes, my lord,

*The Rev. Robert Gibson* sworn.—Examined by Mr. CRESSWELL.—I believe you are the son of the late Charles Gibson, Esq. of Quernmore?—Yes.

And you are now vicar of Bolton-le-Sands?—Yes.

Did you go to school at Hornby?—Yes.

When did you go to school there?—In 1808; I am not quite sure whether it was in 1806; I left it in 1809.

How old were you when you left that school?—Fourteen.

Did you often see Mr. Marsden at that time?—Yes.

Were you ever asked to the Castle?—Yes.

By Marsden or Wright?—By Mr. Wright; never by Mr. Marsden, that I remember.

Who appeared to be the master of Hornby Castle?—Mr. Wright.

Did you ever hear Marsden speak to Wright, as if Marsden were the master?—No.

Did you ever hear the reverse of it?—Yes.

You have heard Wright speak to Marsden, as if he, Wright, was the master?—Yes.

Generally speaking, how did Wright conduct himself towards Mr. Marsden?—Certainly as his superior.

Did Marsden submit quietly to that?—Yes.

Do you remember, after leaving school any time, seeing Mr. Marsden at your father’s house to dinner?—Yes, I do.

When was it?—I cannot fix the year, but it was after I had left Cambridge; when I was curate of Bolton, I went there in 1817, 1818, or 1820.

What were his manners when at your father’s house?—I remember very little conversation; in fact, I do not think he entered into it, except that I remember my father speaking to him upon the subject of music, and mentioning Corelli.

Did Marsden enter into conversation?—I cannot say that he did, but he merely said that Corelli was a very fine composer; that was all I recollect: my father knew that he professed to be fond of Corelli, and therefore he mentioned it to him.

Have you ever heard him play?—Yes.

Do you understand music?—A little.

How did he play?—In a very inferior way.

Did you think him capable of playing Corelli's music?—I am certain he could not.

Used he ever to play to you, at school, at Hornby?—Yes.

What used he to play to you then?—One tune, "Dainty Davie;" it was a joke among the boys, when we were by ourselves, and in the way to hear it.

Did he use to invite you to hear him play?—He did, once or twice, when we were walking about in the garden; he asked us to come and hear him play.

Where did he take you to?—I remember once hearing him play in the garden-house, upon the terrace, and in a room looking to the South, but I do not know what they called the rooms, it was one room that entered at the first door.

Have you heard the letters read?—I only heard a small portion of them; I heard the correspondence between Alexander Marsden and Mr. Marsden; I heard that read; I was not here the first day.

In your judgment was John Marsden capable of composing those letters that bore his name?—Certainly not, without assistance; at least, I can only judge of what I saw at my father's house; I can judge more from that than from recollection.

Cross-examined by the ATTORNEY-GENERAL.—When did you see him at your father's—when for the last time?—In 1808, I think.

How old were you then?—Twenty-two, I think; it was just before I took orders.

Was he an oldish man, getting into years?—Undoubtedly, he was oldish.

Had he then the appearance of a man getting into years; had any of the infirmities of age come upon him?—I can scarcely answer that question; he was not a young looking man; he must have been an old man; he bore the appearance of age very well; he was always rather old looking.

Was that the last time you saw him at all?—I will not positively say it was the last time.

Which is the last time you met in society?—I cannot say that either; I think I met him afterwards, but I am not certain.

Where do you think you met him?—I should not have taken so much notice on the last occasion; I saw him at my father's as I recollect, by some particular circumstance.

Have you recollection enough to say whether you ever saw him again?—I have not.

Then I have done with that; how often have you met him at your father's?—Very seldom lately; he used to come on some public occasion; at the time I met him, there was a rook-shooting party.

How often have you met him at your father's table?—Two or three times; as my father went on a visit to Hornby Castle at the venison feast, he came occasionally from that.

You gave us the date, 1818, as the last time you met him at your father's, can you give us the first time?—No; I cannot.

Did he come more frequently when you were a boy, to your father's table?—I cannot say; I was at school when my father had these parties.

You have no knowledge whether he visited your father then more frequently?—I have not.





You had seen him two or three times, at your father's table, after you left Hornby school?—No; only that once.

You were fourteen years of age when you left Hornby school?—Yes.

In what year was that?—In 1809, or Christmas of 1808.

From 1808, or 1809, how often did you see him?—I cannot say.

I mean, to speak in society?—Never, to have any particular attempt at conversation, except on that day.

When your father spoke to him?—I spoke to him, also, several times.

In the year 1809, or Christmas, 1808, how long were you at school at Hornby?—Four years, or four years and a half.

Your judgment has been chiefly formed about him, from ten to fourteen years of age?—(No answer.)

GURNEY, B.—He said he formed his judgment principally from the interview with him at his father's.

*Witness*—Yes, more than from any recollection of my early years. Early impressions are not easily obliterated; but I formed a judgment more from the last time, because having seen him previously at school, I attempted to enter into conversation with him; I was then older, and able to do it.

Have you any recollection of the attempt at conversation?—Yes; it was as to music. I was present and joined in the conversation.

Will you tell me what conversation you yourself had with him?—I do not remember.

Can you recollect a single word of what passed between you and him?—No; not a single word; but we were in the habit of playing together.

When did you last hear him play the violin?—Not since we were at school.

But you say you are certain he could not play Corelli?—I am certain he could not play at all perfectly or correctly.

With reference to what experience do you say that—with reference to what specimen?—From the specimen I had when I was a boy. I could not play them myself; I could play the flute a little, sufficiently to judge.

Did you teach yourself as a boy, or were you taught?—I taught myself as a boy.

From notes, or from the ear?—At first I used to play by ear.

At school, did you know a single note of music in books?—Yes.

When first did you learn it from books?—I cannot tell.

Did you learn it before you were fourteen?—Yes; but I did not play so much then as after. I could tell whether a person could play a tune well or not.

Did you know what the tune was that he was playing?—I knew the one tune that he played often.

Did you ever hear him play any other?—Yes; I have heard him try others.

More than one other tune?—I took no notice of any others particularly, except that one tune.

Have you entirely forgotten?—I cannot remember any particular tune he played, although I have heard him. I do not remember any other tune; I do not remember any other conversation with him, except as to music.

Is this all that you remember?—Yes.

You have no recollection of a single word more?—Not to speak positively.

Not a syllable?—No; except when he began to talk nonsense.

What nonsense did he talk ?—I cannot tell.

Repeat any nonsense that he talked ?—I do not remember the conversation at all

Was it a conversation with yourself or your father ?—Not a conversation with myself, but with my father.

Tell us one circumstance that passed ?—Very often after dinner Marsden appeared as if he did not know what he was about; he began to mix his wines, and my father endeavoured to restrain him, and he said, “it made no difference at all whether he took port wine or gooseberry wine,” which was upon the table. He was at that time perfectly sober.

Mixing them in the same glass ?—No ; he was drinking first one and then the other.

And your father was directing him to the right bottle ?—Yes ; and he said, “it made no difference.”

Do you recollect any other circumstances ?—No, I do not.

Re-examined by Mr. CRESSWELL.—What are those circumstances that made you recollect them at dinner ?—Because we were surprised.

GURNEY, B.—You are not to give us your surmises or supposition.

The ATTORNEY-GENERAL.—I thought I had got all the facts.

Mr. CRESSWELL.—I wish to know the particular circumstances.

Tell us what the circumstance was you allude to ?—The circumstance was, that he became intoxicated, and his carriage was ordered, and he went away.

Was Wright away ?—He did not go with him ; I believe he was not there ; I cannot say whether he was there in the course of the day or not ; he certainly did not go away with him, if he was there, but my impression is he was not there.

By GURNEY, B.—Now you have given us an account of what passed at that dinner, but you could not state anything that passed as to music, but merely that he said Corelli was a fine composer ?—That is all I can remember ; it was well known that he professed to be remarkably fond of Corelli—he was a composer at the time ; my father used to be acquainted with him.

*Mr. John Hamilton Parr* sworn.—Examined by Mr. STARKIE.—Are you a solicitor at Liverpool ?—Yes.

Were you at Cantsfield school ?—Yes.

That is near Hornby ?—About four miles from it.

Had your father, in 1808, a house in Hornby ?—Yes ;—In 1808 or 1809.

Were you then at Hornby ?—Yes ; and each year up to 1813.

For about how long ?—About a month in the autumn.

Did you frequently see Marsden then ?—Very often at the Castle, and in the Castle grounds, and at my father's house, and at Mr. Procter's, and at Hornby Hall.

Did you meet him at dinner parties ?—Yes.

By GURNEY, B.—What age are you ?—Forty-four.

By Mr. STARKIE.—Were you ever alone with him ?—Often.

In walking, or at the table ?—In walking, and at the Castle, and at Mr. Procter's.

By GURNEY, B.—Was that Procter's school at Cantsfield ?—Yes ; before he came to Hornby.







By Mr. STARKIE.—From the opportunities you had, could you form any judgment as to his understanding?—Yes, I did.

Was he capable of holding any conversation?—No; I never heard him do so.

What were his powers of judgment and discrimination?—Extremely weak.

You say you were frequently in his company?—Yes; very frequently.

Was he capable of managing his own affairs, in your judgment?—Oh, no.

Or capable of understanding the value or extent of his property?—I think he did not.

Have you seen him in company with Wright?—Yes.

At the Castle?—Yes; at the Castle, and at other places.

Now, what was Wright's general manner and conduct towards him?—Kind enough, but he treated him with a sort of indifference, and interrupted him, or corrected him in conversation---rather abruptly, often.

Did he treat him as a man or as a child?—As a boy; he kept him in order.

How did Marsden conduct himself with respect to Wright?—With great respect and submission.

Have you had opportunities of judging of his disposition; was he courageous or timid?—Very timid; he was very much afraid of a dog.

What were Marsden's manners?—He was exceedingly polite, and even troublesome with politeness.

Fond of ceremony?—Yes, of action and ceremony; pulling off his hat, and making many bows.

You heard the letters read?—At York, but none here.

Which one did you hear principally?—The one from Marsden to a friend, on the death of somebody that both he and I were acquainted with.

Was it to any of the Dawsons?—Yes, that was the name.

Was he capable of writing such a letter?—I think not.

Have you heard all the deeds read?—No.

Do you know any part of the depositions?—No.

Was he capable of making a will?—I should think he was not capable of doing so, nor of giving instructions. If he could have given instructions, I should have attended to them, but he was incapable of giving any.

Cross-examined by the ATTORNEY-GENERAL.—Are you engaged in this cause as solicitor?—I have served three subpoenas; one on myself.

That was a sort of reciprocal subpoena?—I put it into my clerk's hands. I had it all to myself.

It is an odd sort of serving a subpoena; if any one had seen you they would have thought it strange; is that all that you did?—I went over with a letter to Lord Stanley.

Did you take the examination of any witnesses?—I took the examination of Dorothy Butler, of Liverpool; but she could not come.

She has come, and been examined some days ago; you do not know one half of your value; have you, since 1813, paid more than a passing visit to Hornby Castle?—I have not.

Since 1812, is not that so?—I have done no more than pay a passing visit to Hornby.

You are now forty-four?—Yes.

Then you were twenty-two; how often have you seen him since then?—Perhaps, four or five times.

In these passing visits?—Yes.

Before that, did you ever stay at Hornby any time, before 1812?—Oh, yes; not at the Castle.

Did you ever sleep at Hornby Castle?—No.

Or did you ever sleep under the same roof with Marsden?—Never, to my knowledge.

How many times have you ever dined in his company?—I should think three or four times a-year, from 1808 to 1812.

By GURNEY, B.—From eighteen to twenty-two years of age, you would be?—Yes.

By the ATTORNEY-GENERAL.—Did you know him before 1808 at all?—I did not know him, but I had seen him when I was at school.

Where did you use to meet him at dinner?—At the Castle, at Hornby Hall, at the Vicarage, and at Mr. Procter's, but principally at my father's, who had a house at Hornby.

Whose house was Hornby Hall; whose house was that?—Mr. Murray's; I am not so certain as to Hornby Hall, upon reflection.

What is your opinion of that?—I doubt it; but I have no doubt as to my father's and Mr. Procter's, and his own house.

You have seen Mr. Marsden read the newspaper very often?—I have seen him with a newspaper at the Castle.

That is not an answer to my question; my question is, have you ever seen him read the paper?—I never saw him read it; I do not think I ever did.

Did you ever see him with a newspaper, and talk with him, so as to suppose he had read it, or not?—I think he had read it.

Have you any doubt of it?—It is a long time ago; I think I have not any doubt about it.

Now, I ask you, when at York, did you not use this very expression, "he was very fond of reading the newspaper?—Perhaps I might.

Is it true, was he very fond of reading the newspaper?—I think he was; he was very fond of talking about it.

By GURNEY, B.—From his talk, did you find he had been reading the paper?—I thought he had.

By the ATTORNEY-GENERAL.—And that he was very fond of reading the paper?—Yes.

Re-examined by Mr. STARKIE.—Had you any conversation with him about it?—He used to ask me if I was fond of reading the newspaper.

Did he ever give any opinion, as to what he had read in the newspaper?—No, he never did.

Do you recollect, on any particular occasion, his beginning something about what he had read in the paper?—I think I recollect once, when alone in the Castle with him, he stopped in the middle of an observation he was making upon a passage, and gave a look which I cannot well describe; it was in this way, (witness demonstrating it by his looks) he stopped; and stared in a stupid manner, and all recollection appeared to leave him; he did not conclude the sentence; he seemed to have totally forgotten it. It was something about politics, or the talk of the day.

You have made passing visits since?—Yes, I never went through Hornby without calling.



when questions were asked of him ; some of the company used to speak to him, but they spoke to him as if he was not capable of giving a rational answer.

*Mrs. Matthew Atkinson* sworn. Examined by Sir JAMES SCARLETT.—You are the wife of Mr. Atkinson, of Temple Sowerby?—Yes.

You formerly resided at Hornby before you were married?—Yes.

Were you acquainted with Mr. Marsden?—I was.

From what period did your acquaintance commence with him?—From 1813 to 1819.

Were you acquainted also with Wright's family?—I was, perfectly.

Did you occasionally visit at the Castle?—Yes.

Did you dine there sometimes?—No ; I never dined there ; I have been invited, but I never dined there.

Have you ever endeavoured to converse with Mr. Marsden?—I have endeavoured to converse with him.

Did you ever find him capable of rational conversation?—I never found him capable of keeping up a conversation.

Did you try him on different subjects?—I did not think he could have understood anything but the common topics of the day, the state of the weather, or the day ; or towards Christmas, the compliments of the season.

Was he civil in his manners?—Very civil.

He had an organ in the house, we understand?—Yes ; I have heard the sound of the barrel organ.

Have you been taught music?—I have, Sir James.

Did he appear to have any knowledge of music when you heard the organ play?—He appeared delighted, but I should not think he understood music at all.

Did he contrive, in grinding, to keep the music in tune?—It is so long since I cannot say.

Do you remember one evening when you were drinking tea there, one of the Misses Wright's proposing that he should play on the violin?—Yes, I do.

Relate that circumstance?—Mr. Marsden was requested to bring his violin down ; some of the company wished to hear him play ; he brought it down with satisfaction to himself ; he asked me what I would like, and I said anything he pleased—I left it to himself to play as he was disposed, and he commenced with "Dainty Davie."

Did he play it throughout?—He got through at last, but with many stops, and evidently with great difficulty to accomplish it.

Who were of the party?—I cannot speak to names ; there were one or two of the Misses Wright, my sister, and myself.

Was Mrs. Wright there?—No, I think not.

Nor Mr. Wright?—No, I think not ; there were the young ladies.

In what way was his playing received by the ladies?—We were all highly amused, and laughed at the difference of his playing. He played it once over, and he attempted another little air, but I cannot recollect the name.

Did he attempt that and could not get through it?—Yes ; he could not get through it.

What I wish to ask is, whether he left off of his own accord?—I do not recollect.

You do not recollect how it terminated?—No.





Do you recollect being there another evening, when you had a party at Commerce?—Yes; Mr. Marsden, Mr. Wright, Mrs. Wright, and my sister and myself, and the young ladies; seven or eight altogether, and my sister.

You played at Commerce?—Yes.

You exchange hands, and make your hand up, in that game?—Yes.

Did you observe how Mr. Marsden conducted himself?—He was long in choosing a card.

Did Wright say any thing?—He hurried him in choosing the cards, and hurried him in a rude tone, and reproved him; he put his hand down, and Marsden and himself passed that time by, saying “why are you so long;” he always hurried him in choosing the cards. Mr. Marsden was hurried by Wright in choosing them; then he drew the cards before me, and on one occasion he did not allow Marsden to choose one at all; he said “take that,” after Marsden had lost his three lives, or three sixpences three times.

Did he appear to have any discrimination in the choice of the pool?—He knew the diamonds, the hearts, the spades, and clubs; he always tried for what we call a flush, all of the same sort.

Then he lost his life, or what you call it?—With us it is called the old horse. There is a pool, and each puts in a sixpence or shilling. We used to play very low stakes, and the one that led off generally lost all his sixpences, and, when Marsden did so, we used to give him another sixpence to have another chance.

The first that dies has a sort of privilege of resurrection?—Yes.

Have you observed at tea anything particular as to how the young ladies used him; how did it strike you?—He was not used as the master of a family; they used to joke a bit with him—the young ladies.

Did he appear to have any influence or control in the family at all?—No, from the opportunities I had, I never saw anything but that he was a cipher in that family.

Did you observe whether he was very fond of cake?—Yes; always when it was there; it was often at a great distance from him—whether by accident or not I do not know, but I used to observe that it was not very near him; and, when tea was very nearly finished, I have heard him ask one of the ladies, “I will thank you for a bit of cake;” and Miss Jane Wright pushed the cake rudely to him, and said, “Here, take a bit;” and said something to herself, which I did not hear.

Had you taken notice whether he had fixed his eye on the cake some time before?—No; I always observed that he looked at the cake; I was directed to the cake.

Did you ever see him get up to take it?—No; he never did, he never did.

Have you observed the treatment of the Misses Wright to him, in the presence of Mr. and Mrs. Wright?—I think I did not see any difference; at the time he mentioned the cake, Mr. Wright was not present, but Mrs. Wright and her daughters were.

Did they treat him as a cipher, whether Wright were present or not?—Exactly the same.

From what you saw of him, could you think he was capable of writing a rational letter?—I should not think so, Sir James.

Cross-examined by the ATTORNEY-GENERAL.—I think the events you

speaking of were somewhere about nineteen or twenty years ago?—I think it was between 1813 and 1814.

But the game of Commerce you speak of was about the year 1813 or 1814?—I think it was between that and 1816.

That would be nineteen or twenty years ago—you fixed it earlier at York?—It might be so, but I cannot be certain.

Did you visit down to the end of 1819?—I only repeated their calls up to the time I mentioned.

By GURNEY, B.—How often have you drank tea there?—Perhaps a dozen times in a year; I think the Misses Wright generally called; my calls were not to Marsden or Wright; but to Mrs. Wright and the Misses Wright; I think I drank tea there after the circumstance of the commerce.

By the ATTORNEY-GENERAL.—How often were you there after the circumstance of the cake—you stated at York that the game of Commerce you allude to happened between 1814 and 1815?—I think so; but it was two or three years after.

You were there during six years—were you ever there after the Commerce?—Yes, of course, spending the evening.

With your sister?—She was with me.

Any body else?—I cannot say exactly.

Did he know your father at all?—Yes.

Was he not an eminent solicitor of this town?—He was a solicitor of this town.

Was he not considered as a very clever man?—He was considered so.

And an honourable man?—Yes.

Is that his hand-writing? (Handing a deed)—It is a much larger hand than he generally wrote; he has been dead above twenty years, and I cannot swear to it.

What is your belief?—I do not think it is; I should positively say it was not his hand-writing; I have letters of my father's that I could shew; I do not think it is; perhaps it may be; pardon me, but I do not think it is.

You think it is a forgery?—I cannot say, but that is not his; that is a much larger hand than he used to write.

Is that more like his hand-writing, which is still larger; his name was James, was it?—Yes.

Do you think that is like his writing? (Shewing another part of the same deed.)—It might have been in earlier life, but he wrote a much better hand than that when I recollect it; I think the "James" rather resembles it; but, when my father wrote to me, it was a much more practised hand-writing; it is rather like a school-boy; I am sorry to say, Mr. Pollock, I have not seen my father's writing for twenty years.

Your father was an honourable man?—I believe so.

GURNEY, B.—Let me see that deed. (The deed was handed to his lordship.)

SIR JAMES SCARLETT.—It is the conveyance of a property, purchased by Mr. Marsden: and, when conveyed, he paid £52. for it.

Mrs. Elliotson sworn.—Examined by Mr. CRESSWELL.—Did you ever live near Hornby Castle?—Yes.

About what time did you first visit there?—I fancy about sixteen years of age.







Did you frequently see Mr. Marsden?—Yes, frequently.

Did you ever attempt to enter into a conversation with him?—Yes.

Did you succeed in keeping up any conversation with him?—No, I did not.

What were you able to maintain—what topics did you go to?—Upon topics of the weather, the season, or so on; very rarely got beyond that.

Do you remember sitting at dinner once, when the topic of a more interesting kind was introduced—the Catholic question?—Yes, I do.

Were you sitting next him?—Yes.

How long ago was that?—About twelve years ago.

Was it Catholic emancipation they were discussing?—Yes, it was.

Did Marsden make any observation to you upon it?—He expressed his dislike to it.

Did he say why?—He said, “Oh, what! the divinity of our Saviour—that would never do.”

Did you make any reply to that?—I did not.

Did he take any further part in that conversation at all?—He mentioned the same sentence again, in the same words, and then dropped it.

Cross-examined by the ATTORNEY-GENERAL.—I think to Miss Tatham you had stated that it had occurred to yourself that he meant the real presence?—Mr Sharp asked me if I thought so.

I asked you at York?—You did.

By GURNEY, B.—Did he mean the real presence?—(No answer.)

By the ATTORNEY-GENERAL.—I ask you whether it occurred to you that he meant the real presence; did you not use these words, “it has occurred to me that he might mean the real presence; although it did not occur to me at the time?”—I thought that you asked me whether he might not mean the real presence, and I said I thought he might.

I believe you never talked to him about the subjects before?—Never.

Nor afterwards?—No, nor afterwards.

I ask you this—did you not at York say, to a question put by me, that he might mean the real presence, as I did not mention it to him at the time?—I understood your question, had you not allowed it to be so.

My question is plain. Did you not at York say this—that it had occurred to you that he might mean the real presence?—I believe I never did.

I am sorry to press you upon that point; but are you quite certain upon that point?—I am.

Has it never entered into your mind that he never meant the real presence?—If it did, he might not understand it.

That is not the question. My question now is, whether it have never entered into your mind that he possibly meant the real presence?—He might by possibility.

I do not ask you what you think now; but has it not been in your mind, before you went to York?—It occurred to me, when Mr. Sharp named it to me; sometime afterwards I mentioned it to him.

Did you mention Sharp's name at York?—No; I did not.

Had you any conversation at that time with Mr. Sharp upon the subject?—I had.

You did not mention that to me at York?—No; I did not.

Did it not pass, just in these words that I put it to you, whether it had not come into your mind that he meant the real presence?—Not in substance, I told you the words as I remember them.

Have you ever been at church with him?—I have been in the next seat to him at Hornby.

Did he use a prayer book?—I do not know.

Did he join in the responses?—I was very young at the time, I did not observe.

Did he take the sacrament there?—I never saw him.

You never heard him make a remark upon a religious subject but this?—Never; that I am aware of.

Re-examined by Mr. CRESSWELL.—I think you stated that you thought at York the question was “had I not allowed”?—Yes; I understood it so.

To whom had you allowed it to?—To Mr. Sharp; I named the conversation to him, and he suggested that it might be that, and I allowed it might be that.

Were the words you gave us to-day the words he used?—Yes.

From what you saw of Mr. Marsden on other occasions do you think he would be capable of understanding the meaning of the real presence?—I do not.

*Mr. Matthew Atkinson* sworn.—Examined by Mr. STARKIE.—Mr. Atkinson, do you reside at Temple Sowerby, in Westmoreland?—Yes.

You are a magistrate, and deputy lieutenant of the county?—Yes.

And the husband of the last witness but one?—Yes.

Did you know the late Mr. Marsden?—I did.

When first did you know him?—In the latter part of 1818.

Have you been in the habit of visiting Hornby since that time?—Yes; every year, at Hornby.

Do you mean at the Castle?—No; at Hornby.

When you visited at Hornby, did you go occasionally to the Castle?—Very seldom.

Were you in the habit of seeing Marsden?—I met him occasionally in the street and likewise in his own grounds.

How long did you continue?—Very nearly to the period of his death, in 1826.

Have you had talk with him on those occasions?—We never met but we always spoke.

Had you any conversation with him?—Never any conversation with him but merely the compliments of the day; he always made inquiries for Mrs. Atkinson, and compliments to her; we never went beyond that; as to the weather he would ask, and then ask after Mrs. Atkinson, and his compliments to her; that was all.

Have you met him more than once the same day?—I cannot say exactly; I never met him but that was always what he said.

Did it appear to you that he was capable of conversing upon other subjects?—Certainly not.

Do you recollect where you saw him last?—A very short time before his death, in passing.

Where did you see him then?—I saw him and Wright standing at the gateway which they were altering at the castle; I then went up and addressed Marsden, and inquired of him what he was doing; his answer was, “I do not know, Sir, you must ask Mr. Wright,” who was standing at the other side of the gateway.

From those opportunities which you have had, what was your judgment of Marsden's capacity?—An exceedingly weak man; very imbecile.





Was he capable of managing his affairs, or the general affairs of life?—  
In my judgment he was not.

You were examined at York?—Yes.

Do you recollect any of the letters that were read on that occasion?—  
Yes; in Court.

Any read on this trial?—No; I have not; but I heard Sir James Scarlett make some observations upon them.

Do you recollect those classes of letters that were read at York?—Yes.

Dawson's correspondence?—I heard some of them.

Did you hear Marsden's letters read?—I cannot state that I did.

In your judgment was he capable of composing those letters?—In my judgment he could not.

Cross-examined by the ATTORNEY-GENERAL.—He was not capable of indicting a rational letter upon any subject at all?—No; not any subject that required understanding or capacity.

Can you mention any one of those letters in particular?—No; I do not know that I can; but my conclusion is that he was perfectly incapable of writing any of them.

Do you recollect any portion of the letters that you think he could have written?—In my mind he could not write any thing that could convey a rational notion.

Did you ever sleep under the same roof with him?—Never.

Did you ever pass a day with him?—No; I never did: mine were all casual.

Did you ever dine in his company?—Yes; at Mr. Procter's, the clergyman, of Hornby.

How often have you met with him at Mr. Procter's?—Two or three times, but I perfectly recollect dining with him never but once.

Did you ever meet him any where at dinner, except at Procter's?—Never.

Did you ever take any other meal with him, at any time, of any sort?—No, never.

Re-examined by Mr. STARKIE.—Whether you recollect those letters or not, was that your judgment of him?—Certainly; decidedly that was my opinion.

*Thomas Cowell* sworn. Examined by Mr. ARMSTRONG.—Does your father keep an Inn, at Preston?—Yes.

Do you reside with him?—Yes.

How old are you?—Twenty-nine in March.

Was your father a farmer under the rectorship of Heysham?—Yes, in 1814, ending in 1830.

Who was the rector then?—The Rev. Thomas Clarkson.

Who succeeded him?—The Rev. Thomas Yates Ridley.

Did you know Mr. Marsden?—Yes.

Was he in the habit of coming to stay at Heysham?—Yes.

In summer time?—Yes.

Who did he come to visit?—Mr. Wright, who had a house at Heysham at that time.

Have you ever had any conversation with Marsden?—No, Sir.

Has he ever come to your father's house?—Yes; he came to ask a drink of milk, and we gave it him.

Had you ever any conversation with him?—No, none.

How was he treated?—He was treated as a gentleman ought to be.

Was he ever afraid of any thing?—Yes, of a young dog upon the green.

Did he come to your house in company with Wright?—No.

Whereabouts did he sit in the church; did your family attend the church at Heysham?—Yes, in general every Sunday.

Was your pew adjoining to Wright's?—Yes, when our pew was open, Wright's could scarcely open.

Did Wright and Marsden go to church at Heysham?—Yes.

Did you ever see Wright do any thing to Marsden during the service?—Yes; I have seen him take him by the coat collar and make him sit down during the prayers, when he did not kneel, or when he turned from kneeling to sit down.

Had you seen him more than once?—Yes, many times.

Have you observed Wright's treatment to him at church?—Yes.

And this happened often?—Yes.

Did Marsden sometimes read loud?—Not particular.

Did you ever see Wright do any thing else besides?—Yes, I have seen him take the prayer-book out of his hand in the service; he had one or two in his hand at once, and he has taken them both from him during the time of service.

How did Marsden bear it?—He said nothing; as soon as he took them from him, he sat himself down.

How did he bear being taken by the collar?—He quite submitted.

Have you seen this many times?—Yes.

Up to the time of Marsden's death?—Yes.

Cross-examined by the ATTORNEY-GENERAL.—Up to the time of Marsden's death was this?—I cannot say; it might be 1806.

From 1806 down to his death?—As nearly as I can think.

By GURNEY, B.—Do you mean twenty years—do you mean that?—Yes.

How old are you?—Twenty-six years of age.

By the ATTORNEY-GENERAL.—You were not born in 1806?—I did not say I was; five or six years it might be before he died.

What did you mean by answering my lord twenty years?—It is eighteen years ago since we went to live there.

How many years before Mr. Marsden's death do you mean to say this took place?—I do not know.

I wish you would tell me as nearly as you can?—I do not know how many years.

How long has Mr. Marsden been dead?—Perhaps seven or eight years.

Then, if you are now twenty-six, you would be only nineteen, or scarcely that, when he died?—Yes.

How long can you recollect that took place, that you have been speaking of in the church?—Perhaps two or three years.

It was only two or three months?—Yes; it was years that we saw him at Heysham before he died.

But as to these things at church, that you said had happened?—I cannot swear as to the time.

Can you swear that that which you mentioned, took place more than three months before his death?—No, I cannot.

Or three weeks, or three days?—No.

Will you swear it took place before his death?—Yes.







I will thank you to tell me how long it was before his death?—I do not know how long.

Form some belief about it?—Perhaps two or three years before he died.

How long before Mr. Marsden died did you say this happened at church?—Perhaps two or three years.

Was that the first time?—No.

When was the last time you saw it?—I cannot say, I used to go to Heysham church; I have seen it many times, but I never took it down, nor took the day of the month.

Do not scold me; when were you subpoenaed to come here?—A week on Saturday it was.

Were you ever subpoenaed before?—No; never in my life.

When was your examination taken?—Last Wednesday afternoon.

When the cause was going on?—Yes.

I think you mentioned the name of Mr. Ridley?—Yes.

Were you a servant of his?—No; I never was a servant of any body's, I live with my father and mother.

What were you doing at Heysham?—My father was a farmer there for fourteen years.

Do you know that Mr. Ridley has been examined in this cause?—I do not.

Have you seen him here?—Yes.

Do you know him?—Yes.

You attended the church when he was there?—Yes.

Whereabouts did Marsden sit with relation to Ridley's pew?—A good way distant.

Is it in sight?—No, they are not in sight of Ridley when he was in the pulpit, nor when they were in their seat.

Do you mean to say that where Marsden sat he could not see the clergyman?—No.

How near did you sit to him?—Not by a couple of yards.

What was to prevent you?—The pillar in the church.

Were you regular in your attendance at church?—In general every forenoon.

Did this occur every forenoon when Marsden was there?—No; I have seen it often, but I cannot say how often.

Ever more than once?—Yes.

Twice?—Yes.

Three times?—Yes.

Four times?—Perhaps it may—more than that.

Five times?—I do not know; perhaps I have.

Have you seen it six times?—I did not take notice.

Do not swear at random, young man; how often have you been at Heysham when Marsden has been there at all?—He came down in the summer season, and he was at Mr. Wright's.

When was Mr. Wright's house built?—I cannot say; there was a great deal built when we went to Heysham; it was of size enough at first.

Re-examined by Mr. ARMSTRONG. In what part of the church did Wright's family sit at the time you speak of?—At one end of the church.

Do you not know he has a different seat now?—No; I do not.

He did not sit in the gallery?—No; there was nobody in the gallery only in Mr. Hesketh's seat there.

You could not see the clergyman where you sat?—We could not.

*Mr. James Harrison* sworn. Examined by Sir J. SCARLETT.—You are an attorney in Manchester?—Yes.

Were you with Mr. Lewthwaite of Lancaster?—Yes.

Did you occasionally visit Hornby?—I did.

I believe you married a lady of this neighbourhood?—Of Lancaster; I had relatives at Hornby.

Do you remember being at Hornby chapel the year before Mr. Marsden died, in 1825?—Yes; it might be nine months before his death.

Did you see Mr. Marsden and Wright there?—I did, at chapel.

Was a psalm sung before the communion service begun?—It was.

Do you remember hearing anything said about a charity sermon?—A notice was given out by the clerk that there was to be a collection after the sermon.

When was that given out by the clerk?—Immediately before the psalm was sung.

He gave notice of a collection for the poor?—For some charitable purpose.

Did you observe, after the clerk gave out that notice and the psalm singing, did you see Marsden do anything?—I saw him take out half-a-crown from his pocket and put it on the book-ledge of the pew.

Did you see Wright do anything then?—Shortly after that Wright looked towards him, and shook his head at him; he did that a second time.

What did Marsden do after the second time?—On that Marsden took the half-crown up again, and after a short interval he placed it on the book-ledge, and Wright repeated his shake of his head at Marsden, and looked very earnestly; he did not take up the half-crown. Mr. Wright then crossed the pew and took it up himself, and retained it till after the sermon.

After the sermon did a person go about collecting?—Yes.

By GURNEY, B.—Did they collect from pew to pew?—Yes.

By Sir JAMES SCARLETT.—Did you hear then what happened?—Mr. Wright then returned to Marsden a piece of coin, which Marsden put into the box. When I said it was half-a-crown, it was when I saw it upon the book-ledge.

Whether it was the same half-crown, or the same coin that was put into the box, you cannot tell?—No, I cannot.

How near were you sitting from them?—Within a yard and a-half of them.

You saw distinctly into their pew?—Yes.

You knew Wright and Marsden well?—Yes; but I never saw Wright before. I inquired, and I learned that it was Wright.

By the ATTORNEY-GENERAL.—When was you subpoenaed?—Yesterday, for the first time; I was spoken to on Friday.

You were added to the snow ball on Sunday?—I was subpoenaed.

Sir JAMES SCARLETT.—Evidence is not so easy to collect as a snow ball.

By Sir JAMES SCARLETT.—Had you mentioned the circumstances to any body?—I mentioned it several times, but not to any body who was likely to subpoena me, as I had no wish to come. The circumstance was mentioned among friends.

*William Cowell*, sworn.—Examined by Mr. CRESSWELL.—Are you the brother of Thomas Cowell, who was examined here a little ago?—Yes.

Did you reside at Heysham, with your father, when he was there?—Yes.

Do you remember Marsden and Wright coming to church there?—Yes.





About what year was it you first saw Wright coming to church?—About fourteen or fifteen years ago, as well as I can recollect.

Did Marsden come?—Yes.

Whereabouts was Wright's pew?—Right opposite to ours.

On the east or the west side of the church?—On the west side of the church.

Near the communion table?—Yes.

Could you see the pulpit from it?—Only just see it from one end of our pew.

From the other end, you could not see him?—No.

Could you see him from all parts of Wright's pew?—No.

From any part of it?—Only from one corner of it.

Had you ever observed anything particular about Wright, at the time of Marsden being in that pew?—Yes.

What have you seen him do?—I have seen him repeatedly get hold of him, and make him kneel, and give him a shake.

Did Marsden ever make the responses loud?—Yes.

Louder than any of his neighbours?—Yes.

Have you ever seen Wright do anything when he was making his responses aloud?—Yes; I have seen him shake him and take the book from him.

What did Mr. Marsden do?—He sat down quietly.

Did he drop his voice?—Yes.

How often did you see that happen?—Several times.

Do you recollect when it happened last; how long before his death?—No, I cannot.

Do you know when he died?—Yes; in 1826.

How many years before he died did you see him?—Perhaps ten or eleven years.

Had you seen this happen occasionally all that time?—Yes.

Cross-examined by the ATTORNEY-GENERAL.—Are you older or younger than your brother?—Younger by two years.

It is a very small church, is it?—Yes.

*Mr. William Gibson* sworn. Examined by Mr. ARMSTRONG.—Are you a banker at Kirkby Lonsdale, in Westmoreland?—Yes.

What age are you?—Seventy-three.

Were you acquainted with the late Mr. Marsden?—Yes; I knew him very well.

When did you first know him?—From a school-boy to the last fifteen years; I did not go to school with him, but I was at Kirkby Lonsdale school.

Did you next know him at Wennington?—Yes.

Have you been at Wennington when he was there?—Yes, once.

And when Wright was there?—Yes.

Did you go on business?—I believe it was on business.

Did you proceed upon the business?—There were other transactions, I believe; but I went on business, but I cannot recollect what it was.

Did you see Mr. Marsden there?—Yes; I was introduced into the room where Marsden and Wright were, and we continued. I think it was in 1786.

How was Marsden employed then?—He had pictures, a music book, and fiddle, amusing himself.

Did he continue in the room with you ; was Wright there ?—Yes ; at first.

Did Marsden continue in the room, or what happened ?—Mr. Tatham came into the room—Mr. Henry Tatham I afterwards understood him to be—and in a very short time I observed that there was a great deal of ill-humour from Wright to Tatham, and it continuing I withdrew to Mr. Marsden and began to talk to him about little things, not to hear it, and it continued for some time, and very likely I might strike the fiddle-string, and Wright said very austere,ly, “Music is better at a distance,” so that Marsden and I walked out into another room.

Have you been at Hornby Castle ?—Yes ; I have not done with that.

Go on and state it ?—I was waiting till the answer was received.

Tell us what passed ?—I continued with Marsden for an hour or better, and then I got my answer, and went home, and I thought a good deal about it.

Had you any conversation with Marsden ?—Yes, I talked with him, and I rather tried him over.

What answer did he make you ?—His mind was quite vacant.

In your judgment, was he capable of transacting the business of life, his affairs ?—I should say no such thing.

Was he competent to make a will of his property ?—I saw the will, and I should say no such thing—nothing like it.

By the ATTORNEY-GENERAL.—Have you any thing more to say ?—Nothing that is at all material.

By Mr. STARKIE.—You knew him as a boy ?—Yes.

When you saw him in after-life, was there any improvement in him ?—No, nothing material ; it appeared impossible ; there was no material change.

Cross-examined by the ATTORNEY-GENERAL.—That visit of yours is a very long time ago ?—Yes ; but the thing made a very deep impression on my mind.

How old were you then ?—I am seventy-three ; and, take the same from that, being 1786, I should be about twenty-six years old. I was born in 1761.

You are now seventy-three ?—Yes, I am.

Did you see Marsden in after-life, at all ?—Only casually ; I wish to state it exactly as it was.

By casually, you mean you saw him at Kirkby Lonsdale, for instance ?—No, I did not say at balls.

Any where at dinner ?—No ; it was merely casually seeing him whenever he was passing.

You never exchanged a word with him after ?—I do not think I did.

After that, all your recollection of him is now about forty-eight years ago ?—I dare say it is forty-eight or fifty years since I first saw him.

Did you ever see him since, to converse with him ?—Not to converse with him.

Do you know what you went about ?—I should apprehend that it was about oak bark.

Do you recollect any thing passing upon the subject of oak bark—Wright had to send to get a message somewhere.

What had you to do with oak bark ?—I was engaged in the business of a tanner.







I did not know that?—But I wish you to know everything.

Did you know anything of Marsden at school?—Only as a shy and singular boy; I never spoke to him at that time.

Now, let me ask you—you say you struck the fiddle-strings?—I did, a little.

And that provoked Mr. Wright?—I do not know what it was; he did not seem in an ill humour with me before.

Were you and Henry Tatham quarrelling?—No; he was remarkable for forbearance.

Were not you and Henry Tatham quarrelling?—No.

Was not it your impression that you observed a sort of ill humour between him and Henry Tatham?—Yes, I saw ill humour; but it was about provoking, contemptuous conduct on the part of Wright.

He was behaving very ill to Henry Tatham?—I thought so; I thought it very strange he should do so.

And then you took the way out?—No, I went home; I went from one room to another with Marsden first.

Do you recollect anything that passed between you and Marsden?—It was all childish acting, just suitable to him.

Did you take pains to adapt your conversation to his understanding?—I endeavoured to ascertain whether he could answer any thing rationally or not; but he could not—his mind was very vacant indeed.

Could he answer any thing rationally?—No, not a word—I think he could not.

Not any thing?—He had no reasoning powers in him.

Have you any recollection of any subject you tried him on upon what you thought him deficient?—It was as I described to you.

Have you any recollection of what passed between you and him?—No; it was merely childish stuff.

On both sides?—You may call it what you will.

Re-examined by SIR JAMES SCARLETT.—Do you think he appeared to be sensible of Wright's conduct to Henry Tatham?—Not in the smallest.

He made no remark upon it?—No.

Did you stay in the same room with him all the time?—Yes.

When you say, remaining with him for an hour, you mean going from one room to another and conversing with him?—On various subjects; his music, and other things, but I do not recollect the particular topics.

But you tried him on various things?—Yes, I did, and then I found his mind vacant.

You saw him at Kirkby Lonsdale, as a school-boy?—Yes, I was shewn him.

Did you observe any thing remarkable about him?—It was in the street; he stood very quiet within five yards of the door where I was, some lads around him; I did not go near him.

You did not hear him say anything then?—No, not a word; none of the boys came nearer him, than those that were around him.

You said you had never seen him since the time of this remaining with him but casually?—No.

Did you ever see him at Hornby Castle?—Yes.

When was the first time?—Twelve years ago.

Did you see him at Hornby Castle?—Yes. Wright sent to me that he

wished to see me about a lot of bark, I put my horse up at Hornby, and went up to the castle, and Wright and Marsden and I went down to see the bark, at a shed at the back part of Hornby; I said it was spoiled, I said this to Wright.

The ATTORNEY-GENERAL.—How does this arise out of the cross-examination?

GURNEY, B.—You asked him sometimes as to his being sent for to the castle.

By the ATTORNEY-GENERAL.—You said it was spoiled?—Wright said, “Do not speak ill of my goods”; it was spoiled entirely, it was black.

Was Marsden by?—Yes, he was remaining about the door.

You had no conversation with Marsden then?—No, he was about.

Did he appear to take any interest in it?—No, not at all, for when Wright gave me the answer I was short to him; I went and got my horse.

The ATTORNEY-GENERAL.—He seemed to be rather angry?—Yes.

By GURNEY, B.—You thought you were sent on a fruitless transaction?—Yes.

(The deposition of James Johnson was then put in and read by the clerk.)

*James Johnson*, of Kendal, in the County of Westmorland, attorney-at-law, aged forty-four years and upwards, a witness produced, sworn, and examined on the part and behalf of the complainant, deposeth and saith, as follows:

To the first interrogatory, this deponent saith, that he hath known the complainant for eight years or thereabouts, now last past, and the defendants, George Wright, Anthony Lister, and John Marsden Wright, respectively, for twenty-nine years or thereabouts, but that he doth not know the defendants, Margaret Wright and Charles John Lister, or either of them.

To the second interrogatory this deponent saith, that he first saw John Marsden, deceased, in the pleadings of this cause named, in the latter end of the year 1799, when he accompanied the late Mr. Dowbiggin, solicitor, in Lancaster, as his clerk, to Hornby Castle. That during deponent's clerkship with the said Mr. Dowbiggin, from the said year 1799 to the latter end of the year 1806, he had frequent opportunities of seeing, conversing with, and observing the said John Marsden, for he has been at Hornby Castle for several days together; and during one part of his clerkship, when some inclosures of commons in that neighbourhood were in progress, he was seldom a week without spending a day at Hornby, and the said John Marsden often dined with the said Mr. Dowbiggin and this deponent at the inn there. That since the expiration of deponent's clerkship, he has called five or six times, and occasionally dined with the said John Marsden, and met him in parties at other places: and to this interrogatory deponent cannot further depose.

To the third interrogatory this deponent says, that he had such means and opportunities before stated of observing and forming an opinion of the understanding, capacity, judgment, conversation, conduct and disposition of the said John Marsden, and of his power and habits of managing his affairs and property, and of spending his time and employing himself. That when deponent has seen him at other than meal times, he has been employed in walking about, and in playing upon the violin. Deponent never knew him attempt to learn anything, but does not know whether he was capable of learning anything; deponent believes he was certainly not capable





of transacting any business, or of managing his own affairs or property, or of giving any proper orders or directions about the same to the servants or workpeople. That he was certainly not able to estimate the value of his property; or to buy or sell, or contract for any estate, or to pay any large sum of money, or to give instructions for, or understand any conveyance or will; and deponent forms this opinion, from general observation of the said John Marsden's habits, and from his never asking any questions about, or taking any interest in, any deeds or papers which deponent saw brought before him for his signature; and deponent never considered him of a sound mind, understanding, or judgment. That he was capable of taking care of his person; and, so far as deponent saw, he did take care of his person. That he was of a particularly and fearful and timid disposition and character, and was easily alarmed. Deponent has frequently seen him start back, on seeing persons he did not know, and in meeting dogs or geese. And deponent says that the said John Marsden was childish and weak in his mind, conversation, conduct, and habits.

To the fifth interrogatory the above-named deponent, James Johnson, upon his oath, saith, that the house establishment and grounds at Hornby Castle were large and extensive, and many servants and work-people were employed there, and the estates of the said John Marsden were extensive. Deponent never knew the said John Marsden transact any business, or manage his own affairs or property, or any part thereof, or give any directions about the same either to the servants or work-people, because the same was done by the defendant, George Wright, solely and exclusively, so far as deponent ever saw; and deponent never knew the said George Wright consult the said John Marsden, or ask or receive any orders or directions from him respecting the same. That the said George Wright, in the course of such management, made various sales and purchases for the said John Marsden, and all that came within deponent's knowledge deponent does not know who hired or dismissed the servants and work-people, but the said George Wright received all the rents and money of the said John Marsden.

To the eighth interrogatory this deponent saith, that the said John Marsden appeared to be very fond of music, but not to understand anything about it. That he frequently invited deponent to come to him into his room, and immediately began to play "Dainty Davie" on the violin, and this was particularly the case whilst the said Mr. Dowbiggin and George Wright were engaged in riding the boundaries of the manor of Hornby, on which occasion deponent remained two or three days at Hornby Castle, and was much annoyed by the said John Marsden's importunities to hear him play "Dainty Davie," and that as soon as he had played it over once he immediately proposed to play it over again, and deponent never heard him play any other tune through, though he has heard him play parts of other tunes. That he spent a good deal of time in playing or preparing to play, and deponent thinks he did not conduct or express himself sensibly in regard to his playing. That he never taught or pretended to teach music to this deponent, nor to his knowledge to any other person, nor was deponent ever employed to play the organ at Hornby chapel. Deponent has seen many music books in the said John Marsden's room, but never saw him play from notes, and to this interrogatory deponent cannot further depose.

To the twelfth interrogatory, this deponent says, that the said John Marsden was never, in deponent's opinion, capable of knowing the extent of his property; but deponent thinks he knew its value, in point of rental, by information from the said George Wright. That on one occasion, deponent was walking with the said John Marsden, in a field belonging to himself, and adjoining the grounds of Hornby Castle, and they came to a stile which was inconveniently narrow, and the said John Marsden observed he should ask the said George Wright to what person the property belonged, that a better stile might be made. Deponent never considered the said John Marsden of sufficiently strong mind to dispose of his property by will, or capable of making a will. Deponent has no recollection of seeing the said John Marsden, in or about the months of June, 1822, or February, 1825; and, therefore, to this interrogatory, this deponent cannot further depose.

To the fourteenth interrogatory, that the late Mr. Dowbiggin was the said John Marsden's attorney, during the whole of this deponent's clerkship, and deponent considered him a respectable man, and he transacted much business for the said John Marsden, in holding courts, preparing conveyances to and from the said John Marsden, and prosecuting and defending actions for him.

That the said John Marsden did not, to deponent's knowledge, ever give instructions or pay for such business, but the defendant, George Wright, gave instructions, and paid for the same. That the said John Marsden has frequently executed and signed mortgages, conveyances, deeds of enfranchisement, and other instruments and papers, in this deponent's presence, during his clerkship, but the same were never read over or explained to the said John Marsden, in deponent's presence, because Mr. Dowbiggin gave deponent directions on taking such deeds to Hornby Castle, to see the said George Wright, who, he said understood those things very well, and took care that all was correct on Mr. Marsden's behalf. That the said George Wright then told the said John Marsden the deeds or writings were come for his signature, upon which, he always signed the same. That the said George Wright sometimes, but not frequently, informed the said John Marsden whose deeds they were which he was about to sign, and this deponent saith that the said John Marsden never appeared to take any care or interest about them, but signed them under the direction and control of the said George Wright.

To the fifteenth interrogatory this deponent saith, that he always considered the said John Marsden, whilst he knew him, to be submissive to and under the control of the said George Wright, and it was very apparent that the said John Marsden had not a will of his own, when the said George Wright was present. Deponent has frequently seen him controlled by an angry look from the said George Wright, or by the single expression—"Mr. Marsden!" And deponent says that the said John Marsden did not keep a carriage during deponent's clerkship, and that he told deponent the said George Wright thought he had better not keep one; and deponent saith, that the said John Marsden was certainly not a firm or resolute man.

This deponent has frequently heard him speak of his property, as "my clerk," "my honour of Hornby," and "my fishery;" but never heard him act or speak as the master of his own house, grounds, servants, or work-people, and never saw him exercise any authority or control over the servants or work-people at Hornby Castle, or over any other person. That he did not converse much in company, but his conversation was trifling; and deponent has often known him checked and controlled in his conversation by a look from the said George Wright, but never saw him controlled in







his eating and drinking, and going to bed. That the said John Marsden did not preside at his own table, but the said George Wright sat at the bottom, and Mrs. Wright at the top of the table; and the said George Wright was always treated and considered as the master of the house there. And to this interrogatory this deponent cannot further depose, except so far as he has already done, in his answers to preceding interrogatories.

To the sixteenth interrogatory this deponent says, he never knew the said John Marsden made a subject of ridicule or derision; and to this interrogatory this deponent cannot depose any further, except so far as he has already done, in his answers to former interrogatories.

To the seventeenth interrogatory this deponent cannot depose any further than he has already done, in his answer to the third interrogatory.

To the nineteenth interrogatory, this deponent says he never saw the said George Wright control the said John Marsden; during deponent's clerkship he was entirely under the control and direction of the said George Wright, and always submitted to his directions, and was always afraid and in great awe of him. Deponent has frequently seen them together, and such control was constantly apparent. That the said George Wright did not behave himself towards the said John Marsden as a steward toward his master, or as being under his control or direction, but, on the contrary, as having the control or direction over him; and that the said John Marsden did not conduct himself towards the said George Wright as a master towards his steward, but as being under his control, orders, or directions, and as a person who had control and direction over him, and to whom he must submit.

That the said George Wright is an authoritative man, and exercised much authority over every one about him, and he exercised as much control and authority over and towards the said John Marsden as he did over and towards his own children; and to this interrogatory this deponent cannot further depose, except so far as he has already done in his answer to preceding interrogatories.

To the twenty-first interrogatory, this deponent says, that the said George Wright, and Mr. Giles Bleasdale, of Wenning Cottage, were very intimately acquainted, during the latter part of deponent's clerkship and afterwards; and deponent has frequently seen them together at Hornby Castle and elsewhere, and has also seen the daughters of the said George Wright, visiting at the said Giles Bleasdale's house, in the neighbourhood of London. Deponent has also seen the said Giles Bleasdale converse with the said John Marsden, who appeared to be almost as much in awe of the said Giles Bleasdale, as he was of the said George Wright; and to this interrogatory, this deponent cannot further depose, except so far as he has already done in his answer to preceding interrogatories.

To the last interrogatory, this deponent says, that within three or four years, next preceding Mr. Marsden's death, deponent was invited by Mr. Sharp, solicitor, in Lancaster, to dine at his house, along with the said John Marsden and some other gentlemen; that, after all the rest of the party were assembled, they waited a full hour for the said John Marsden, who was known to be in Lancaster at the time, and on search being made for him he was found in the street, looking at the caricatures in the window of a stationer's shop, and when he entered the room, he was told that the company had been waiting for him so long, he laughed, and said, "oh,

I have been looking at some funny pictures in the window of a stationer's shop in the Market-place;" and this deponent also says, that the said John Marsden was in the habit of talking and muttering to himself when walking alone.

*Mr. Edward Rawlinson* (a blind gentleman) sworn.—Examined by Mr. ARMSTRONG.—Are you an attorney at Lancaster?—Yes.

Were you clerk to the late Mr. Dowbiggin?—Yes.

How long were you with him?—Eight years.

Was Mr. Sharp his partner at first when you went there?—Yes.

When did you go?—In 1805, and continued to 1813.

During your clerkship had you frequently to go to Hornby Castle on Dowbiggin and Sharp's business?—Yes.

Were you several times in company with Mr. Marsden; have you dined at the Castle with him?—Yes; several times during the course of that time.

Have you dined there seldom or frequently?—Perhaps two or three times in the course of a year.

What kind of man was Mr. Marsden in manner?—I never had a conversation with him; I have seen him in company, and been at the same table; he was very timid, and had no conversation; no, I recollect to have had once a conversation.

What was that?—I went to Hornby Castle on business, and on going into the room, I met with Wright and Marsden, and Wright introduced me to Marsden and said, "this is Mr. Rawlinson;" he did not hear Wright distinctly; he then said, "Mr. Rawlinson is with Dowbiggin and Sharp;" he came immediately up to me and said, "Oh! Mr. Rawlinson how do you do; I can see you are a gentleman by your clothes;" that was all that he said.

Did you frequently go there on business?—Yes.

Who did you see?—I have been with Sharp, Dowbiggin, and others.

Did you see Wright?—Yes.

Who did you transact business with at Hornby Castle?—Always with Mr. Wright, but I was generally only sent with a message, when I did not go with Dowbiggin and Sharp.

Have you ever seen him at Lancaster?—Yes; at Sharp's house I have seen him and dined with him.

Did you ever dine with him at Dowbiggin's?—I do not recollect.

Was there a great deal of business done at your office, when you were there?—Yes.

Did you ever know Mr. Marsden take any part in it at all?—No.

Did you consider him competent to do so?—I should think not.

Tell us why you formed that opinion?—I never knew him to give any instructions, or transact any business whatever.

He never did with you?—No; I never spoke to him except that once; I do not recollect.

Did you ever see him come to Dowbiggin's office?—Never; that I recollect.

Who appeared to be the master at Hornby Castle?—Mr. Wright appeared to me to transact every thing there.

Cross-examined by the ATTORNEY-GENERAL.—I think you say you went





there on messages chiefly?—Either on messages, or in company with Dowbiggin and Sharp.

You say Mr. Marsden did not appear to hear?—Not at first.

Was he at all deaf?—No.

Was it that Wright did not speak loud enough?—I only fancied he did not hear him at the time.

Was he at all deaf in the latter part of his life?—I was not aware that he was.

Was he in the habit of putting one leg more forward than the other?—No; I am not aware of that at all.

*Mr. Reginald Remington* sworn—Examined by Sir JAMES SCARLETT.—You live in the parish of Melling, do you?—Yes.

How long was you acquainted with the late Mr. Marsden?—Before I was of age I resided at Wennington Hall.

What is your age now?—Sixty-three; I knew him when he was resident at Wennington Hall.

Did you continue to know him from that time to his death?—Yes.

Had you frequent opportunities of seeing him?—Very often.

And conversing with him?—Very often.

Did you ever come in a chaise with him to Lancaster and back?—Yes; Wright asked me to accompany him once, and I came with Marsden alone.

During all that period had you opportunities of conversing with him, and did you find him capable of any rational conversation?—Certainly not; I always addressed him as a weak person, and upon light subjects.

Did you ever know him converse like a rational man?—No, never; on any matter of business, nor any thing that required intellect or understanding; he was a childish person.

Were you in the habit of dining occasionally at his house?—Yes.

And did he come to dine with you?—Yes.

Did he behave well at dinner?—Yes.

Had he the forms of civility about him?—He had.

Do you think he was capable of transacting any business?—Certainly not.

Have you had business to transact with him?—I rented the tithes of the township of Melling of Mr. Marsden, for twenty one years; I was his tenant of those lands.

Those were the tithes of your own land?—Yes, including others.

With whom did you make the bargain?—With Wright.

Had you ever any conversation with Marsden about the contract?—Never a word during the twenty-one years.

Did he speak to you upon the subject of your being his tenant of those tithes?—No, he never did.

Did he appear to have any consciousness that you were his tenant?—No.

To whom did you pay the rent?—To Mr. Wright.

Was it paid at the usual period?—At the usual rent days, half yearly.

Did Marsden ever make any enquiry, or reference, to the subject of the farm in Melling, or the tithes there?—No, never.

He was lord of the manor of Hornby?—Yes.

Was there any school in the gift of the lord of the manor?—There was

a school built upon the waste, in my father's time, very near the village of Melling; it was within the township of Hornby, but within the waste of Melling; the waste land was in Melling, but it belonged to the lord of the manor of Hornby.

The appointment of the schoolmaster was by him?—It was not originally; before Mr. Marsden bought the lordship of Hornby it was not, but when he bought it Mr. Wright claimed the right to nominate; it became vested in Marsden, and was claimed by Wright, as part of his property, as lord of the manor.

At the time you went with him to Lancaster, you were some time in the chaise with him?—Yes; I travelled from Hornby to Lancaster, and back again to Hornby Castle.

Had you an opportunity of trying his mind, to see if he had any conversation?—I knew him so well that I had no occasion, at that time, to try him.

From your knowledge of him, do you think he was competent to give instructions for a will?—No, nor nothing like it; but to say, "I give you my property."

By GURNEY, B.—Did you think him competent to give instructions for a will?—He could say, "I leave such a man my property," but that was all.

By Sir JAMES SCARLETT.—Do you think he could have any understanding to give a distribution of his property in succession?—No, no such thing.

Did he appear to you to know the extent of his estate,—what number of acres he had?—No, it was quite impossible.

By GURNEY, B.—Do you happen to know the extent of his estate?—It is a very large estate.

How many acres,—hundreds or thousands of acres?—Above one thousand acres.

By Sir JAMES SCARLETT.—Is it five thousand or six thousand acres?—No, I do not think so; I should say two thousand or three thousand acres.

And, taking the inclosures, it may make it more?—Yes; but as I have no idea of the inclosures, I cannot say.

Seven yards to the perch of Lancashire acres?—Yes.

That makes more than double; a Lancashire acre is larger than the Cheshire.

Mr. ARMSTRONG.—No; Cheshire is eight yards to the perch.

Had Mr. Marsden any of the habits, or pursuits, or the taste of a man of fortune?—No, no such thing; he always behaved to me and the neighbouring gentlemen with civility, who dined with him.

Did you observe Mr. Wright, as to the part he played in Marsden's house?—Yes.

Did he appear to you to be the entire manager?—He did.

I do not mean entirely as a steward; but did he manage the whole domestic concerns?—To all appearance, everything.

Do you know from any thing whether Marsden had a will of his own?—I can name a circumstance.

If you please; what was it?—It is about twenty years ago. I recollect a slight misunderstanding between Wright and me, and not long afterwards a reconciliation took place; consequently I called again at Hornby Castle, and was shewn into the room where Marsden was alone, or Marsden came in just as I entered; I said, "how do you do, Mr. Marsden?"







he muttered something, but would take no notice of me; he would give no answer.

Had you always before been on friendly terms with him?—Yes; I had dined with him, and he with me; but he muttered something, and did not appear to know me; he spoke to himself, and spoke two or three words—“Remington;” and on that occasion he muttered something, and would take no notice of me, except saying, “is that you, Remington?” In a minute or two afterwards Wright came in; Wright said, “Mr. Remington, Mr. Marsden;” then he came up immediately, and said, “O, Mr. Remington, is that you? I hope you are well, and your family are all well.”

How long before that visit had you been reconciled to Wright?—I cannot speak to that.

Was that the first visit, after the reconciliation?—Yes, this was the first call of mine, after the reconciliation with Wright.

Had you had opportunities of knowing whether he could count money, and to what extent?—I certainly had, on the occasion of my coming with him to Lancaster in his carriage; he said to me, “I should like to make a slight present to the two Misses Wright; they were then very young; I said, “well, I will go with you;” and Mr. Marsden and I went into a silversmith’s shop at Lancaster; he looked out a trifling article or two, and made a purchase; he gave me a piece of gold to pay those articles with, and Mr. Russell gave me the change. I was so hurt with seeing Marsden so confounded, in Russell making him understand that he had got the right change, that I left Marsden in the shop, and went to the door.

What did you observe, upon Russell giving him the change?—I observed Marsden counting it over, and working it backwards and forwards, and counting it over, and over again, and Russell said, “you have got the right change,” and Marsden said, he was not satisfied, but I was so hurt that I came out; I did not lend any assistance, nor say any thing, but came to the door.

Cross-examined by the ATTORNEY-GENERAL.—I think this circumstance of your feeling, is rather new; you did not state this at York?—I did not; I was not asked.

Now, I believe in the year 1790, you were not twenty?—Yes, I was born in 1770.

Where were you then?—I was at home.

Doing what?—Living on my property at Melling.

Had you known any thing of Marsden then?—No, it was before I was acquainted; I recollect dining at Wennington Hall with him; it might be a year or two before that; I recollect dining with him before I was of age.

Is that your hand-writing, as a subscribing witness to that deed—(handing a deed)?—Yes, it is the witness to the signature of John Marsden and Richard Mansergh.

Was that deed read to Mansergh or Marsden?—I cannot say.

How long is that ago?—In 1790.

Did you not, at York, say, I must have certainly heard the deed read before I put my name to it?—If I did say so; I do not recollect.

Can you undertake to say you did not say so?—No, I will not.

Did you not say, at York, that at the time you signed that, you thought Marsden competent, most likely?—I do not hear you.

Did you not say, "this is my signature," and did you not say, "I should most likely, at that time, have thought him competent?"—I do not recollect that I said that at York.

Will you swear that you did not?—No, I will not; I have no recollection upon it whatever.

Upon this point I must press you; did you not say at York, that at the time you signed that, you thought him competent, or most likely that he was so?—No, I cannot swear either way; I might have said so, but I have no recollection; but not that I thought he was competent.

When you put your name to that paper, did you think he was competent?—With Wright at his elbow. If there was any business transacting, Wright was the other subscribing witness.

By GURNEY, B.—Did you think him competent at the time?—I never gave it a thought at all at the time; I was not asked if he was competent to understand it, at that time I might not give it the least thought.

By the ATTORNEY-GENERAL.—Did you think him competent at that time to put his name to it?—Yes, but not to understand it.

Competent to write his name?—Nothing more.

Do you mean to say that at the time you attested that deed, you thought Mr. Marsden was competent to write his name, and nothing more?—I thought then, and ever since, that he was a very weak man, and never competent nor capable of transacting any business whatever.

Am I to understand, Mr. Remington, that you attested the deed of a man whom you thought incompetent to understand any deed of this sort?—I have given an answer to it.

Do you mean to say, that you attested the deed of a man who was incompetent to understand such a deed?—I did it; with Wright at his elbow, I might have no hesitation to attest his signature.

I beg to repeat my question; did you attest his signature, thinking him incompetent?—I did nothing more than witness his signature.

By GURNEY, B.—Did you think him incompetent to understand the deed?—I was then only twenty years of age, and I did not attend to it at all; I gave it no thought at all, with Wright at his elbow.

By the ATTORNEY-GENERAL.—Wright being at his elbow could not alter your thoughts, whether you gave it a thought or not?—I do not recollect; I can give no other answer than that I do not believe I gave it any thought at all; I only witnessed his signature, that he was competent to write his name, that is all.

Let me ask you—do you mean now to say you have no recollection that at York you said, that most likely you thought him competent?—I have no recollection whatever that I said so.

Will you swear that you did not?—I cannot think I did.

In the year 1792, did you enter into this contract with him, "an agreement for the tithes of Melling, or twenty-one years' lease;" read that and say who are the parties to it (handing it). "Mem. of agreement made 25th August, 1792, between John Marsden, of Wennington Hall, on the first part, and Reginald Remington, of the said county, on the other part;" that is you, you are Reginald Remington?—Yes.

And that is your signature agreeing with Marsden?—There is not Mr. Marsden's signature.

You had a counterpart of this deed had you?—No, I never had.





At the time you put your name to this deed, did you think Marsden competent to make an agreement to let the tithes?—Never in my life had I any conversation with Marsden for twenty-one years; the agreement was made with Wright.

Did you think Marsden competent to agree?—I thought nothing at all about it; I made the agreement with Wright.

At the time you made that agreement, did you think Marsden competent or incompetent?—I thought nothing about it; I knew his weakness at that time; I made the agreement with a man that was competent.

Was your agreement with Wright or Marsden?—With Wright; I never spoke to Marsden about it.

Marsden is the party, but Wright was the contracting party?—Yes.

Sir JAMES SCARLETT.—That is quite plain; it is as if a man was not capable, he must not let his estate.

By the ATTORNEY-GENERAL.—Did you in 1806, mortgage the tolls; is that deed executed by you and other persons (handing the deed)?—My name is here along with several others.

That is a mortgage of the tolls is it?—Yes.

Did Marsden get that mortgage?—Yes; we mortgaged them to Marsden.

By GURNEY, B.—For how much is it?—For £100.

By the ATTORNEY-GENERAL.—Is that your signature?—Yes.

Now, I believe you have had more than one dispute with Wright.—Yes, I have.

How many?—I cannot say a great many; I have had more than one certainly, as I did not visit him several years before Marsden's death.

By GURNEY, B.—You did not visit Marsden for some years before his death?—No, I did not.

What was the reason?—Mr. Wright and me having a misunderstanding.

By the ATTORNEY-GENERAL.—How many quarrels have you had with Wright?—I cannot answer that question.

You say you have been in hot water for many years?—In hot and cold water several times; I was not on visiting terms sometimes; I have not been on visiting terms.

Have you not been on very bad terms?—Wright would have spoken to me on any public meeting.

Have you been on bad terms with Wright or not?—I have not been on visiting terms for many years before Marsden died.

Have you been on good terms for many years?—Not friendly terms for several years.

Have you not been on very unfriendly terms?—I have told you I was not on friendly terms; I have not been on terms with Wright---friendly terms with Wright, nor visiting at Hornby Castle for many years; I cannot give you any other answer.

You can answer this question; have you been on very unfriendly terms?—I have not been on either visiting or friendly terms.

Have you been on unfriendly terms?—Define what you mean by unfriendly terms; I have not been on friendly terms.

Have you been on very unfriendly terms?—Yes, it was on unfriendly terms; it was merely as to my standing up for my rights.

By GURNEY, B.—Have you or not been on unfriendly terms, you can answer that?—I should say it was on unfriendly terms, not neighbourly, when two neighbours are not visiting together.

By the ATTORNEY-GENERAL.—Have you not been on very unfriendly terms with him?—You add the word “very” to “unfriendly terms;” I cannot answer it; I told you I was not on friendly terms.

Re-examined by Sir JAMES SCARLETT.—You had no personal quarrel with him?—No.

When you met in public you spoke to him?—Yes; for some years I did not speak to him.

Did you speak after Marsden died?—Yes, at public meetings.

Was it of a personal nature?—No; it was only upon a question of property.

Was your difference with Wright the cause of your not visiting Marsden?—It was.

In your judgment, from what you say of Marsden and Wright, would you consider that any man who differed with Wright would venture to visit Marsden at Hornby Castle?—No.

The ATTORNEY-GENERAL.—That question does not arise out of my cross-examination.

How came you not to visit at the Castle?—(No answer.)

The ATTORNEY-GENERAL.—It is not a question arising out of my cross-examination.

Sir JAMES SCARLETT.—It is to shew the reason why he did not visit at the Castle, and why he could not visit Marsden.

GURNEY, B.—No, I think it does not arise out of the cross-examination.

By GURNEY, B.—Was the dispute about property; was it about a collision of your property with that of Marsden or Wright?—The cause of the last disagreement was about game.

Was it on Marsden's manor?—Yes, it was on the manor of Hornby.

Your difference was then on a question as to Marsden's property?—Yes.

By Sir JAMES SCARLETT.—You made the contract for the tithes you took with Wright?—Yes.

Did you know at the time that the tithes did not belong to Wright, but to Marsden?—Yes, certainly.

You made the bargain with Wright, as you thought Marsden incompetent to make a bargain?—Yes.

Was it on any claim you made, and he resisted?—I made a claim for going where Wright disputed my right; and I continued to go, and that gave offence, and I never afterwards continued to visit at the Castle; I continued to go where he thought I had no right.

He took no steps to prevent it?—No, he did not.

That was after the agreement for the tithes (handing it)?—Yes.

This is the agreement you made with Wright before the commissioners, and he appealed against the rates for the tithes?—I attended before the Commissioners of Taxes, and stated that I thought it was not overrated; and he said, “will you take the tithes for twenty-one years, and pay the rates,” and I said “yes,” and that was all that was done; and then we signed that agreement afterwards.

Did you think Mr. Marsden competent to settle the terms with him







about the tithes?—Certainly not; but I saw no objection to agree with Wright for twenty-one years.

Now as to this bond; you granted a bond as commissioner of a turnpike trust; you and other trustees?—Yes.

You were authorised to grant the tithes for money lent?—Yes.

Did you get Marsden's £100?—Yes.

Did you ever sign a bond without the £100?—The clerk of the road would say as to that.

John Taylor Wilson was the clerk then, was he not?—I am not sure of that. The clerk looks to that, and I take it for granted he got the money.

If the clerk chose to take ready money, you would grant the receipt?—Certainly.

I see you witness the contract in the year 1790; this is by selling, for £52, a small piece of property?—No, I do not think that; It was to purchase a small estate, near Hornby Castle.

Look at it, and you will see what it is?—It is £1,200; you surprised me. It was part of the Hornby Castle purchase. It was a detached part of the estate, which we wished to purchase. Mansergh was the person on whose behalf we entered into the contract with Wright, and I witnessed the signature of Marsden. I was then under age, and I did not give it a thought.

At a quarter past five, p. m., the Court adjourned till to-morrow morning.

#### NINTH DAY.

*Robert Park*, sworn.—Examined by Sir JAMES SCARLETT.—Did you ever serve the late Mr. Bleasdale of Wenning Cottage?—Yes.

At what time did you go into his service?—In 1817.

How long did you continue with him?—Four years and three quarters.

At what time of the year did you go into his service?—In the latter end of 1817.

Did you live with him at Wenning Cottage?—Yes.

Did you observe, during that time, that he and Wright were very intimate?—Yes, they were very intimate.

Do you remember, one evening, when you went with your master to a rook-shooting party at Hornby?—Yes.

Were you out with the shooting party?—Yes.

At what time did you return in the evening?—Time enough for dinner.

Do you remember hearing Wright say anything to Marsden when he was going to bed?—That was long after dinner.

You returned to Hornby Castle to dinner?—Yes.

Sometime after dinner, did you hear Wright say anything to Marsden?—I heard him tell him to go to bed.

At what o'clock was that?—About half-past ten.

Where were you then?—In the servants' hall.

Where was Wright and Marsden?—In the passage going towards the sitting room.

During the latter part of the year 1822, did you observe whether Bleasdale was often at the Castle?—Yes.

Used he to stay some days?—Sometimes three or four days together.

And sleep there?—Yes.

Did you stay in the Castle, or go home in the evening to Wenning Cottage?—Sometimes I did, but if I did I was off in the morning to shave and dress him.

Did you observe that Bleasdale and Wright were a good deal together in Wright's study?—Yes; I had to go and fetch things from that after breakfast.

Did you ever see Marsden with them?—Never in my life.

Were you accustomed to take any letters or parcels from Bleasdale to the Castle?—Yes.

To whom did you take them?—To Wright and every branch of the family, but never to Marsden; the parcels were mostly directed to George Wright, Esq. Hornby Castle.

Do you know any parcel that used to come to Bleasdale, and you sent to Wright?—Yes; I have known parcels that came by the Bentham post, and He sent them to Mr. Wright.

What sort of parcels were they?—Parcels packed up in brown paper.

In the very same cover you took with Bleasdale's name upon them to Wright?—Yes.

Those you took to Mr. Wright?—Yes.

Do you remember, about 1822, a person of the name of Bryan Holme coming to the Castle?—Not to the Castle; he came to Wenning Cottage, to my master's house.

Did he come several times?—He came at night after school hours.

How was he employed?—He was writing for my master.

What was he?—The schoolmaster of Tatham.

When the schoolmaster was employed in writing for your master, did you take a parcel from Bleasdale to Wright?—Yes very frequently.

About the same time that Bryan Holme was writing for your master, did you take a parcel from Bleasdale to Wright?—Every morning at that time.

Have you carried a parcel from Wright to him?—Yes; I have carried back parcels hundreds of times.

Cross-examined by the ATTORNEY-GENERAL.—Now, Mr. Park, were you examined at York?—Yes, I was.

Did you not then say that the expression of Wright was, "you had better go to bed"?—That was the word he used, to the best of my recollection, that "you had better go to bed." It was done in a manner that was haughty.

It was a haughty term was it?—Yes.

You were dismissed, I believe, from Bleasdale's service?—I had notice for notice, and by reason of that I left him. He could not keep me for ever.

Did he ever give you a character?—I never asked him; he did not refuse one: he received one with me, a good one.

Re-examined by SIR JAMES SCARLETT.—Into whose service did you go?—I went to my father, at the King's Arms, and after that I got a service in London.

*Mr. Thomas Cockshott* sworn.—Examined by SIR JAMES SCARLETT.—You live at Skipton?—Yes.





Did you know the late Mr. Marsden?—I once dined in his company, at Swale's, at Settle.

Was Mr. Lister, of Bell Hill, there?—Yes.

Was Mr. Hartley there?—Yes.

At Swale's house?—Yes.

Do you remember whether Marsden expressed any wish about it?—He expressed a wish to me.

What did Lister say?—He said, he must not go, he must go home with his servant and play his fiddle.

He wanted to go to the assembly?—Yes.

Did Lister remain there after he was gone?—Yes.

How was this said by Lister to Marsden---in what manner?—In 1804.

In what manner was it said?—It was said in a friendly manner.

Was it said in a manner that you have ordinarily heard between man and man?—Yes.

By GURNEY, B.---Can you, at this distance of time, say that Mr. Lister said, you must go home with your servant, or you had better go home with your servant?—It was, you must go home with your servant.

You can take upon yourself to say that?—Yes, I can.

(No cross-examination.)

*Mr. Richard Willis*, sworn.---Examined by Mr. STARKIE.---Are you an attorney in Lancaster?—Yes.

Were you formerly clerk to Mr. Parkinson?—Yes.

He was an attorney in Lancaster?—Yes.

In a considerable practice?—Yes.

Did you succeed him in business?—I did.

When was that?—In the year 1803.

Had Mr. Parkinson, when you were with him, many clients in the neighbourhood of Hornby?—A good many.

Had you a transaction relating to the sale of property in that neighbourhood?—We did a good deal.

Have you been engaged in suits relating to Marsden's property?—Many.

Not for him?—Always against him.

Did you attend to that business yourself?—I certainly did, both when I was clerk and when I acted for myself.

Did you ever see any thing of Mr. Marsden in this business?—No; never.

Did you see Mr. Wright---was he active?—Yes, very active, and the only man I dealt with of all those that he employed.

Do you recollect a client of Mr. Parkinson, of the name of Whormby?—Yes, I think I do; he was the owner of the Castle Inn, at Hornby.

Did he sell some property?—He sold some property in Hornby when I was in London.

Who made the contract? had you seen Wright upon the subject of that sale?—I think not.

Do you recollect any other sales of property?—Yes.

Do you recollect a person of the name of Holme, was he a client of yours?—Yes; Francis Holme.

Who made the contract with you?—I sold the property, and was present when the contract was signed, it was made by Barrett, who lived at Bentham.

What had he to do with it; did he bid for it?—Yes.

To whom was the conveyance made?—It was made to Mr. Marsden.

Are you and Mr. Higgin trustees of Brian Townsend?—Yes.

Had you to sell some property in Hornby?—We had Tounsend's property conveyed by us in trust.

Did you sell it?—Yes.

Who bid for it?—Lazarus Threlfall was the purchaser, for £1700.

To whom was the conveyance made?—To Mr. Marsden; there was a small house besides, sold to Mr. Blackburn.

Was he a tenant of Wright's?—Yes.

This property was purchased to Threlfall?—Yes.

The deeds were executed by Marsden?—Yes; it was part of the condition of sale, that he was to convey to the purchaser.

Have you met Mr. Marsden in company?—I have dined with him in company frequently at Mr Cawthorne's; at Wyerside; also, at Lancaster, at the King's Arms, and the Assembly Rooms.

Frequently?—Yes; during the election.

Are those the only times you have met him?—I have met him in the committee room, before he was going to poll at the election; frequently at Cawthorne's, as he had an annual visit of his friends.

What was his manner in company?—He was a very silent man; you could not draw him into conversation while other gentlemen were conversing.

What was your judgment of his capacity?—He appeared to be in that state, that he could not enter into conversation like other gentlemen.

In your judgment, was he capable of transacting business?—I think not; I never considered him so.

Would you, as a professional man of business, have transacted any business with him, without Mr. Wright?—I would not.

There was no cross-examination of this witness.

*James Lonsdale, Esq.* sworn. Examined by Mr. ARMSTRONG.—You are an artist?—Yes.

In extensive practice?—Yes.

Did you, about twenty years ago, paint the portrait of the late Mr. Marsden?—I did.

Where was he staying at the time you painted it?—At Mr. Wright's, at Heysham.

During the time you were occupied in doing it, were you and Marsden in the family, and did you live in the house?—I should think, from a fortnight to three weeks.

Is it your practice, when you paint the portrait of any person, to engage them in conversation?—Yes; I do my best to excite their minds, so as to get their general character.

Did you attempt to draw Mr. Marsden into conversation?—I did in the usual way I should do as to any other gentleman.

Do you recollect that you could not succeed?—I could not, to my best recollection; I could get no conversation at all from him.

How many times did he sit?—I should think four or five times at least—perhaps six.

From two to three hours at a time?—Yes.

Did you try, at various times, to draw him into conversation?—I do not remember trying much after the first sitting; it appeared to me a hopeless case.







What was your judgment of him?—I thought him very weak; of a delicate weak mind.

Did he appear to you competent to any business at all?—I should think not.

Cross-examined by the ATTORNEY-GENERAL.—Should you know the portrait again that you drew of him?—Yes; I should think so.

SIR JAMES SCARLETT.—It is not evidence to be produced.

The ATTORNEY-GENERAL.—To be produced!—I beg your pardon, it should be produced, as it was alluded to (here the portrait was exhibited.)

Is that the portrait?—Yes, it is.

Is that as nearly a correct representation as you could make of Mr. Marsden?—Yes.

Had Mr. Marsden that fresh colour, as he is represented there?—Yes, he had, according to my recollection; I believe I should do my best to make it correct.

Is that the manner in which he was dressed?—Yes.

Had he that air and dress?—Yes; he looked very like a gentleman.

You could not draw him into conversation the first time?—No; I talked with him several times.

Were you a good deal alone with him?—Yes; the family were backwards and forwards; but he was left with me a good deal.

Re-examined by SIR J. SCARLETT.—You say that is a good likeness?—Yes, as true as I could make it.

You made it have the best appearance you could?—I always do my best to give a subject a lift, if I can; taking the best view of the head, and giving the best likeness I can.

He was by no means a disagreeable looking man?—Not at all.

There was nothing at all repulsive?—Not until he spoke.

You could not have judged of his mind by his manner at the first?—No, not immediately—not till he spoke. Besides sitting with him for two or three hours I dined with Mr. Marsden at Hornby Castle, and at Mr. Stout's.

You dined with him at Heysham?—Yes.

You lived in the house at that time?—Yes.

Had you a fair opportunity of ascertaining his judgment?—Yes.

The ATTORNEY-GENERAL.—This does not arise out of my cross-examination.

SIR J. SCARLETT.—It arises out of the production of the picture.

By GURNEY B.—I do not know whether there are two brothers of you—are you the brother of the late rector of St. John's?—No, my lord, I am not.

*Alexander Nowell, Esq.* sworn.—Examined by Mr. CRESSWELL.—You reside at Underley Park?—Yes.

Near Kirkby Lonsdale?—Yes.

You once represented the county of Westmoreland in Parliament?—Yes.

You are now a magistrate of Westmoreland and Yorkshire?—For Westmoreland; I have not qualified for Yorkshire.

How far is it from Hornby?—About nine miles.

When did you see Mr. Marsden?—From 1807 or 1808 to 1815 or 1816.

Did you ever dine with him?—Once.

Did he once dine with you?—No.

Did he ever visit you at all?—I think once.

Have you seen him on other occasions besides those you mentioned?—Yes.

Did you ever attempt to draw him into conversation?—Yes.

How often might you have seen him altogether?—Eight or ten times—I do not recollect precisely.

Did you succeed in getting any conversation from him?—No, never; I had a particular desire to draw him into conversation, to ascertain the qualification of his mind; I will state my reason.

By GURNEY, B.—It will not be evidence, unless it be from any conversation of your own?—It was from reports of the neighbourhood; I had a desire, and I made an attempt.

By MR. CRESSWELL.—Did you propose questions to him?—Yes; such as I thought would be sufficient for the purpose; such as arose out of the occasion.

Was he polite in manners?—Very much so; very gentlemanly in his manner.

Did you talk of the weather?—Yes, I did.

Did you ask him any questions about his premises or property?—Yes; this was in his castle, and I asked him questions, when I walked out with him; I asked him questions as to his premises and property, to excite him. The first visit I made there Mr. Wright was there; I could make nothing of him when Wright was there. I say that when I put a question to Marsden, Wright was foremost to answer it. When I called again to see Mr. Marsden, I happened to find him alone; and then it was that I had an opportunity of ascertaining the state of his mind.

Have the goodness to describe what took place, at the interview, when you saw him alone?—I walked out with him; he was always very polite—particularly so; I walked with him to the garden, on the other side of the castle, where there were some buildings going on; he had no mind whatever—he was a fool—he was worse than Lord Portsmouth.

You were on the jury on that occasion?—Yes, I was.

But it is not legal evidence to make a comparison; your mind had been directed to inquiries of that nature?—Yes; I thought I might illustrate the case, by a comparison with that of Lord Portsmouth.

What did he answer to any questions you put generally?—He said, “I do not know—Mr. Wright knows;” over and over again, he would so answer my questions.

Were those questions relating to his grounds and circumstances of his property?—Yes; from what I saw of the extent of his gardens and premises; but the time is so distant, that I cannot charge my memory.

How long is this ago?—About 1807 to 1815.

That was the latest period at which you conversed with him?—Yes.

Did you always find him the same sort of person?—Yes; I dined with him once, and I sat next to him at table.

Did you then attempt to talk with him?—Yes; there was a large company, and we had an opportunity of conversing.

Was he a man, in your opinion, competent to manage his affairs?—No, totally incompetent to manage any kind of business; he was a perfect fool—he could manage nothing.





Were you at York?—Yes.

Did you hear the correspondence read there?—I did.

Have you heard it again on this occasion?—Yes.

In your judgment, was he capable of composing any of those letters?—Utterly impossible; not any of the letters I heard read.

The letters to Dawson?—No, impossible.

Nor those to Alexander Marsden?—Impossible.

Did you hear the whole of them read?—I did.

Suppose they were put into plain language, do you think he could understand it?—Quite impossible.

Cross-examined by the ATTORNEY-GENERAL.—I think your acquaintance began with him about 1807 or 1808?—Yes.

In what year was it you saw him with Wright?—I do not recollect exactly, but I think it was in the second of those years, 1808—it may be so, but I am not certain.

How long after that was it you saw him alone?—It was soon after that; I was not satisfied with the first visit, and therefore I saw him again soon after.

In what year did you dine with him?—I believe it might be the year after, or the year after that, but I am not certain.

How often have you seen him in the whole course of your life?—Seven, eight, or ten times; I may say seven or eight.

Once you dined with him?—Yes.

Once you called upon him when Wright was there?—Yes.

And once alone?—Yes, more than once—perhaps twice; generally I saw him when Wright was there—seven or eight times. I never saw him but once or twice alone.

Did you ever see him alone on any occasion particularly, except that time you called?—No.

Once you dined at his house?—Yes.

Once you saw him alone when you called upon him?—Yes.

And several times you saw him with Wright?—Yes.

Have you seen him on other occasions?—I have seen him those times I have stated.

First you saw him when Wright was there?—Yes.

Then you saw him alone?—Yes.

And you dined with him?—Yes.

You have seen him at other times when Wright was with him?—Yes.

Have you seen him on any other occasions than those?—That enumerates all.

*Mrs. Edmud Procter* sworn. Examined by Mr. STARKIE.

Mr. STARKIE.—She was examined at York under the name of Whaley.

Mrs. Procter, are you the daughter of Mr. John Whaley?—Yes.

Did he farm the Camp House farm, near Hornby?—Yes.

Sir JAMES SCARLETT.—She was not examined at York; my friend was mistaken.

Was that one of the principal farms at Hornby Castle?—Yes.

Did you visit at Hornby Castle?—Yes.

For how long previous to Marsden's death were you acquainted with him?—Several years; for several years; I cannot say exactly.

About how long?—Perhaps ten years; I cannot say exactly.

Were you in the habit of drinking tea and spending the evening there?—Yes.

Have you played at Commerce with Marsden, Wright, and his daughter? Yes, I have.

In playing at Commerce, could Marsden make out the numbers?—I never knew that he did; one of the Misses Wright assisted him, and sat close to him.

Did you see that she assisted him?—Yes, I did.

Could he deal the cards like other people?—No, he could not.

Have you ever on those occasions heard Wright say anything to him?—Yes; I have heard Mr. Wright order him to give him the cards, and he would deal for him.

Did he deal for him?—Yes.

And then Mr. Wright took the cards and dealt?—Yes.

In what way was this said by Wright to Marsden?—In a very sharp, quick manner.

Do you recollect the particular expression that Wright used when he said this?—Give me the cards; I cannot say much what it was.

Did he prefer playing Commerce to any other game?—I never saw him play anything but Commerce.

In what way did you see Mr. Marsden treated by the young ladies—was it as a man, or as a child?—More as a boy than as a gentleman.

State in what particular manner they treated him?—They used to tease him.

In what way did they tease him?—They used to tease him when he was playing at cards.

Will you have the kindness to state what they did—in what particular way they did tease him?—They used to tease him, in their manner of talking to him—not in particular. Mr. Bleasdale used to tease him very much.

How did the young ladies behave to him?—They used to tease him also.

What did Marsden do—did he submit to this, or how did he conduct himself?—He never used to say anything.

In general, I ask you, was their manner respectful towards Mr. Marsden?—No; it was not.

Did he appear to be under any control?—Yes, he did.

Under whose control, particularly?—Mr. Wright's.

Do you recollect being at Hornby Castle, when Mr. Marsden appeared to be sleepy, and unwell?—Yes, I do.

When was that?—In the summer before he died.

Did he complain at the time?—No; I judged by his appearance.

Did you hear anything said to him, when he appeared so?—Miss Jane Wright said he appeared to be asleep.

In what way did she say this to him?—In a sharp manner.

After tea, did the party sit about the fire?—Yes.

Where did Marsden sit?—He sat at the end of the sofa, from the rest of the party.

Was anything said to him about sleeping?—Yes; Miss Jane asked him if he would come and sit by the fire, and she thought he was going to sleep.

Was anything offered to him?—She asked him to take a piece of cake, thereby, perhaps, to keep him awake.

Was there wine handed to the party?—Yes.







Was there any offered to Mr. Marsden?—No.

By GURNEY, B.—Had he had a paralytic stroke before that?—Yes.

GURNEY, B.—That will account for it, at once.

By Mr. STARKIE.—Do you recollect, at any time, a dance being proposed?—Yes.

Did you hear Wright say to Marsden what he was to do?—He asked him to begin to play.

In what kind of tone was it said?—In a commanding tone.

Give us an idea of the manner in which it was said?—He spoke in a very quick manner, and asked him to play—he brought his fiddle, and made an attempt to play.

Could the company dance to it?—No.

On that, did Wright say any thing?—He told him to give over, and try if he could not grind the organ.

On his telling him to do that, did Marsden give over?—Yes, he did.

Did he attempt to grind the organ?—Yes.

In what way did he do it?—He did not turn it quick enough, and Mrs. Wright went to assist him.

Do you recollect being at church, at any time, at Hornby Castle, when a collection was made?—Yes.

Have you seen whether Mr. Marsden gave any money?—I have seen him go up to Mrs. Wright to ask for money.

Was that before they came round to collect, or after?—It was before they came round.

Did you see whether Mrs. Wright gave him money?—Yes, I did.

Have you seen that more than once?—No; only once.

You say you frequently went to the castle?—Yes.

Were you introduced more than once to Mr. Marsden?—They always named me to Mr. Marsden, when I was there.

In what way were you named to him?—When we came to the door, they would say, “Miss Whaley—Mr. Marsden.”

Was that done every time you went?—Yes.

What is your judgment, as to Marsden's capacity of mind?—I should think he was a very weak man.

In your judgment, had he sufficient capacity to manage the common affairs of a country gentleman?—I should think not.

Your father lived on a considerable farm—did you ever see Marsden there?—No, never.

Did you ever see him interfere in any business whatever?—No; never.

Did you know Roger Chester?—Yes.

Mr. STARKIE.—I will not ask her any more questions.

Cross-examined by the ATTORNEY-GENERAL.—You are the wife of the eldest son of Mr. Procter the clergyman of Hornby?—Yes.

When did you first see Mr. Marsden—in what year was it?—It is so many years ago, that I cannot tell exactly.

He has been dead eight years; how many years before his death did you become acquainted with him; do you recollect him twenty years ago?—No; ten years before his death.

Do you mean you recollect seeing him as much as eighteen years ago, since this time?—I think eight or ten years before his death.

In 1824 he had a stroke of apoplexy and the palsy?—I think so.

Do you not know that for some few years before his death he drank nothing but lemonade?—No.

You were never there at dinner?—No, never.

GURNEY, B.—In such attacks of apoplexy, wine is forbidden, and lemonade recommended.

Re-examined by Sir J. SCARLETT.—Your husband was abroad many years?—For twelve years.

You married him twelve months after his return?—Yes.

How long ago?—Fourteen months.

He had been abroad twelve years?—Yes.

*Dr. Lingard* sworn. Examined by Sir J. SCARLETT.—Did you reside some years in the neighbourhood of Hornby Castle?—Yes.

How many years did you know Mr. Marsden before his death?—From the end of 1811 to the end of 1816.

During that time were you resident in that neighbourhood?—Yes.

Had you seen him since the end of 1816?—Frequently in the street.

Had you ever been in his house since 1816?—No; I merely called at the Castle once.

I believe you went abroad in 1817?—I did.

Was the year 1816 the last period of your dining with him?—Yes, it was.

You never dined there since your return from abroad?—No.

How many times did you dine there, do you think?—I have dined with him frequently at Hornby Castle, with large parties, and with Marsden and Wright alone.

Who invited you in general?—Mr. Wright frequently invited me, but Marsden never invited me except by note; Mr. Wright never by note.

Mr. Wright gave you a personal invitation, and Marsden by note?—Yes.

Had you frequent opportunities of seeing Marsden and conversing with him?—Frequently, both there and in my own house, and in the houses of gentlemen of the neighbourhood, and talking with him in the street.

Did you ever converse, or try to converse with him?—Yes; I have upon trifling subjects.

Had you an opportunity of ascertaining and forming a judgment of the state of his mind and intellect?—I think so, as much as any body.

What was the judgment you formed from your intercourse with him?—I thought he was extremely weak; both weak of intellect and weak of purpose.

Did you think him capable of understanding any affairs or matters of business?—Certainly not.

Or of giving any rational instructions for the transaction of business?—No; I think not.

Was he easily controlled?—I conceived so; I said he was weak of purpose.

Did he appear to you to have any rational purpose or any resolution of his own?—No; I looked upon him as entirely the property of Mr. Wright.

Did he appear to you to be under Wright's control?—Undoubtedly.

What was the reason of your not dining there after your return from the Continent?—I had resolved (interrupted.)

The ATTORNEY-GENERAL.—If it be only something passing in Dr. Lin-





gard's mind it is not evidence ; unless it be as to some fact or circumstance, it cannot be entered upon.

Give us the reasons ?—I am not allowed to state the reasons.

Not your own mind nor reasons passing in it, but was there any occurrence ?—On one occasion I saw Mr. Wright take a letter from him.

Describe how that was occasioned ?—Mr. Marsden rose from the table and went towards the door ; Mr. Wright called out " Where are you going ? " Mr. Marsden turned round and muttered something that I did not distinctly hear ; he then turned to the door and endeavoured to open it. Mr. Wright called out in a more imperious tone " Where are you going, I say ? " He replied, to give a letter to some one, whose name I do not recollect, but it was the name of a servant in the house. Wright said, " Where is it ? " He replied, " In my pocket. " Wright then said " Put it on the sideboard and come and sit down. " He took it out of his waistcoat pocket, put it down, and returned, rubbing his hands ; and, with an awkward smile, like a schoolboy detected in a trick, he sat down. That is not the only instance of the control I saw exercised over him ; I have heard Wright frequently check him in conversation.

In what way ?—When he began to speak, Wright used to say " What do you know about that ; " he always answered " Oh, yes ; Mr. Wright knows—Wright knows, "—in a hurried manner.

After your return from the Continent you say you may have called once ?—Yes ; I think so, but I am not sure.

Had you any invitation, as you refused to dine after that ?—No ; I never had any after that ; I refused a great number before I went to the Continent, because I disliked to go there.

Now, I must ask you, did you ever mention at his table, any thing you had heard at Mr. Murray's table ?—No ; nor could I ever do so, at the time mentioned by Mr. Sharp ; there was some great quarrel when I was on the Continent, between them ; but I had no personal knowledge of it.

When did Mr. Murray die ?—In 1822.

What was the month ?—I think the latter end of October or November, 1822.

Since 1816 you never were at dinner at Marsden's table ?—No.

You are not of the Jesuits persuasion, are you ?—No.

You speak of the character of his mind ; did he appear to you capable of combining his ideas ?—Not at all.

I believe I may ask this question *pro forma*—you have bestowed a great deal of study on literary composition ?—Yes.

Have you heard the letters read ; did you hear at York those letters read that purported to be from Mr. Marsden ; (I desired that copies might be given to you of the letters) ?—The letters to Alexander Marsden.

And to others ?—No.

I desired copies of the others to be given you since you came to Lancaster ; have you had them ?—Yes.

You heard them read in Court ?—Yes ; I remember them perfectly.

From what you knew of Marsden, what is your judgment of his capacity to write any rational letters on business ?—Of himself, he could not ; he could not do it without dictation.

By GURNEY, B.—He could not write a rational letter on business ?—Certainly not.

By Sir JAMES SCARLETT.—Did you think him capable of writing any of those letters to Alexander Marsden ?—No ; I do not think he was.

Do you observe a difference in the style between those letters and some of the earlier letters?—Yes, certainly; some of the earlier letters are very poor things.

By GURNEY, B.—Do you remember what letters you allude to?—Some of those I heard at York.

To Greene or to Wright, or to whom?—I think they were letters in 1790, or before that.

By Sir JAMES SCARLETT.—You remember the Buxton letters?—Yes; in 1791, I think.

Did they appear to you to be the composition of the same person who composed Marsden's other letters?—No; I think not; they are inferior.

Do you remember the letters from Marsden to Dawson?—Yes; some of them I heard at York.

From what you heard of them, did you think him capable of composing those letters?—No; he was perfectly incapable of writing them; they were composed for him; and as to those letters to Alexander Marsden, there is complete and internal evidence of their being written by two different persons;—the first letter is, with one exception, free from grammatical errors,—it is free from errors; the second is incorrect, and full of grammatical errors.

You speak of those three that were original letters?—Yes; I speak of the first and second from Marsden.

By GURNEY, B.—The first was in good language, and the second was in inelegant language, and full of grammatical errors?—Yes, my lord, and not in the same style at all.

The grammatical errors at first might have been of the writer?—Yes; but in other respects the first letter was in elegant language.

That omission is in the first letter?—Yes; it is the omission of a word.

With that exception in that letter, there is not a grammatical error, in that first letter?—I did not observe any other.

By Sir JAMES SCARLETT.—That is the letter in which he traces his descent?—Yes.

You observe there are some traces of writing like a lawyer's letter?—Perhaps there may, I am not acquainted with lawyers' letters.

GURNEY, B.—I should like you to hand up all the original letters to me.

Sir JAMES SCARLETT.—I will, my lord, after some further evidence has been gone through; here he says, "my brother Henry died &c. [See letters at page 257 *et seq.*]

Have you read that before?—Yes; I have read that; it is a mere suspicion of mine; but it struck me that he was not competent to write that.

You observed, he concludes thus, "I am, dear sir, with the highest respect." Is that the mode in which his other letters, addressed to any one else, are terminated?—I think not.

Cross-examined by the ATTORNEY-GENERAL.—Dr. Lingard, I think you say you knew Marsden from the year 1811?—Yes.

And visited him till the year 1816?—Yes.

About how many times in the year used you to dine there?—I believe I have dined there a dozen times.

And how often has he dined with you?—Only once or twice.

Not once or twice a year?—No; he has only dined with me in company with Wright once or twice.







You never knew Admiral Tatham till after the death of Marsden?—No, I may have spoken to him before.

Were you acquainted with him?—Only to bow to.

Who introduced you to him?—I do not recollect; I do not keep any register of these matters.

Where did you meet him?—Somewhere near the Judges' lodgings.

Some one must have introduced you to him?—No; I think it was a mere bow we gave when passing each other.

I have had the honour of meeting him at your table?—The only time, I believe, he ever dined with me was in company with you.

Who introduced him to you?—He introduced himself to me at Hornby.

You know how we became acquainted?—I do.

There is no doubt about that?—No.

SIR JAMES SCARLETT.—I am now going to produce some evidence as to Mr. Bleasdale, shewing the entries of charges made by him in regard to wills of an earlier date than the present one; and also as to some letters received from Mr. Wright.

*Thomas Nevell Cross* sworn. Examined by Mr. CRESSWELL.—I believe you are the son of Mr. Cross, who succeeded Mr. Bleasdale in business?—Yes.

It was Lowless and Cross?—Yes, it was; but it was dissolved; it was Lowless and Cross at the time they joined Bleasdale.

Had they possession of the books that were left in the office?—Yes.

Do you produce a book of Mr. Bleasdale's, containing entries of 1793—1795, of Mr. Marsden?—I have them here.

While they are bringing them, do you produce some letters, also purporting to be written by Wright to Bleasdale?—Yes.

I will also trouble you for a letter of the 6th of January, 1807?—Here it is (producing it.)

Another of the 4th of August 1809?—Yes, (producing it.)

First of September, 1809?—Yes, (producing it.)

Sixth of December, 1809?—Yes, (producing it.)

Nineteenth of July, 1812?—Yes, (producing it.)

Cross-examined by the ATTORNEY-GENERAL.—You have produced how many letters, from Wright to Bleasdale?—Five.

How many did you find?—I cannot tell you how many.

About how many?—About a dozen, or less than a dozen.

Have you not found more than what you have produced?—Yes.

Have you found more letters, not produced, than those you now produce?—I think there are; more than three or four more.

Where did you find them?—Up in the garret where all the old papers are kept.

Whom did you deliver them to?—To the solicitor, Mr. Higgin.

Did you give them all to him?—Yes.

Did you not take an account of the dates of those you delivered?—I took the dates, there were other letters, and some from Eliza Wright.

How many letters did you hand to Mr. Higgin of Wright's, or of the members of his family?—I cannot say, exactly; about a dozen or thirteen.

The book was now produced that was spoken of, containing charges in 1793 and 1795.

*Mr. Cross.*—That is the book alluded to ; it is beginning in 1792, and it contains the account of Mr. Marsden.

*Thomas Loftus, Esq.* sworn. Examined by Sir JAMES SCARLETT.—You were a clerk in Bleasdales' office?—I was.

Many years ago?—Yes.

Do you recognise that book?—Yes.

What is it?—It is called the ledger containing all entries, of all the bills in Mr. Bleasdale's office.

Did Mr. Bleasdale occasionally write in that book?—No ; I should tell you that this is an entry made before I went to the office, but I recollect the book.

Was the book then full?—It was then full, but it was kept by Bleasdale as one of his books.

Is there any of Mr. Bleasdale's writing in any part of the book?—No, I do not see any of his here.

Is that the account of Mr. Marsden (pointing it out)?—Yes ; headed John Marsden, Esq.

Was that the mode he entered his clients?—Yes ; it begins in this 1792, and ends in 1793.

The ATTORNEY-GENERAL.—This is not evidence ; it is not in any degree of evidence ; but I shall not object to it.

Sir JAMES SCARLETT.—It is evidence to contradict Bleasdale's examination.

The ATTORNEY-GENERAL.—Upon a point to which Mr. Bleasdale was never examined.

By Sir JAMES SCARLETT.—Do you find any charge made to Mr. Marsden in 1792 and 1793?—Yes ; I find one in March, 1793.

Read it?—"1793, March,—paid for writing to parts of Marsden's will, and attendance."

By the ATTORNEY-GENERAL.—Read the next entry?—(Witness reading) "Paid booking the parcel back, six shillings."

Do you find any of 1795?—It is not relating to a will, it is in another book.

By the ATTORNEY-GENERAL.—The entry is thus, "Paid for writing two parts of Mr. Marsden's will, and attending, £1, 5s. Paid carriage, portage, booking, &c., six shillings." Is that the entry?—Yes, that is in 1795.

By Sir JAMES SCARLETT.—Mr. Loftus, were you with Mr. Bleasdale in 1807 and 1808?—I was.

Did you continue to his death?—No ; I remained with him till 1809, and then I went to another office. He had two offices. I was at Hatton Court, Threadneedle Street, from 1801 to 1809.

Have you any recollection of Mr. Marsden and Wright being at Bleasdale's office, in Hatton Court, in 1808?—No, it was in 1809.

Were they together?—Yes, they were together the two first times they came.

Where did Mr. Bleasdale receive them?—In his office, on the opposite side of the hall to that where the clerks sat.

Did they stay any considerable time?—Yes, upwards of an hour each time.





Now, some days after that, or about what time afterwards do you remember any will being sent to be copied?—No; I do not; I remember a will being sent previously to be copied in the preceding year, 1808.

The will of whom?—The will of John Marsden.

Were there blanks in it?—Yes, there were.

And it came back with the blanks?—Yes.

That was in 1808?—Yes.

Had you seen Mr. Marsden before?—I never saw him but on one occasion, and that was in 1809.

Do you remember being called in, you and some of the clerks in the office; do you remember being called in to witness Mr. Marsden's will?—I remember being called in with two other clerks, one of whom is now dead, to witness the execution of the codicil.

What year was that in?—That was in May, 1809.

Was that after the occasion in which Wright and Marsden were together?—Yes, it was; and the last day I saw Mr. Marsden there.

When you went into the room, did you see Mr. Marsden with Bleasdale?—Yes.

Was Wright in the room?—Yes.

Did Marsden come alone, or any one with him?—I saw him come alone; I saw him come across the court; the windows of the office look to the court, but how he came I do not know; whether he came or not in a carriage we could not tell.

You saw him come across the court and go to Bleasdale, and then Bleasdale summoned one of the other clerks in May, 1809, and you then witnessed the codicil to the will?—Yes.

You stayed there sometime?—Till Bleasdale read the formal parts.

By GURNEY, B.—Were you employed much in copying correspondence? Yes, that was my whole employment while I remained there.

Do you know whether he had a considerable correspondence with Wright?—Yes, very considerable.

Did you see some of the letters?—Yes, many of them.

Many of the answers?—I copied the letters by dictation; I wrote them to his dictation.

Were there some letters of Wright's you did not see?—There were.

Were there many in number?—No, not very numerous, but now and then a letter came from Wright which I did not see, as Bleasdale answered it himself.

The others you saw, and he dictated the answers to you?—Yes.

Did you ever see any letters from Marsden to him?—No, never.

Cross-examined by the ATTORNEY-GENERAL.—I ask you whether that charge in 1793, paid for two parts of Marsden's will, and the carriage afterwards, imports the taking instructions or preparing the draft of a will?—Certainly not.

Would you, as a professional man, infer that any thing more than two copies of a will were made, and that it was the carriage back?—I should say that it was nothing more than what was paid to the stationer for copying it.

You should so infer from the items?—Only that.

Would any professional man have a doubt of it?—No.

Would the same thing apply to what was done in 1795?—The same

You were present when Bleasdale was examined and cross-examined at York?—Yes.

You sat in court opposite to him?—Yes, I did.

Were you then called as a witness to contradict him in any respect?—I was not.

He was then alive; I need hardly ask if he be since dead?—Yes.

Did not Mr. Bleasdale point you out in court as the gentleman who could set him right, if he had been mistaken?—He did.

Now you say that you witnessed the codicil, was it of any great length?—I think it was rather a short codicil.

That was in 1809?—Yes, in 1809.

By Sir JAMES SCARLETT.—These books were at York?—I presume so; I have not seen them since; I think I saw them there.

By the ATTORNEY-GENERAL.—Mr. Bleasdale was at the head of a very eminent firm in London for many years?—Yes, for a great many years.

Did you know anything of the history of the firm?—I know nothing of the former partners.

By GURNEY, B.—When you knew it, what was it?—It was Bleasdale, Alexander, and Holme; it was under a different firm first, but when I knew it, it was Bleasdale and Alexander, and then it became Bleasdale, Alexander, and Holme; Bleasdale retired, and then Alexander continued it, and then it became what it is now.

Was Bleasdale an expensive man?—Quite the reverse.

It was a very considerable business?—I should think his own share of it was worth from £2,000 to £3,000 a-year.

By Sir JAMES SCARLETT.—Were those books at York?—No, they were not.

By the ATTORNEY-GENERAL (to Mr. Cross).—Had you not a large box of books at York?

Mr. Cross.—No; I was not there.

By Sir JAMES SCARLETT.—Those charges which you state, they do not imply the making of a will, but those we had copies of have it that there was a will to copy?—It is only “paid for copying,” which I understand to mean nothing more than that the stationer was paid for copying it.

By GURNEY, B.—Mr. Bleasdale had retired with a large fortune had he?—Yes, my lord, a very large fortune; he was an unmarried man, and kept a large establishment at Walworth.

*William Bell, Esq.* sworn. Examined by Sir JAMES SCARLETT.—You are a solicitor in London?—I am.

And agent for Mr. Higgin?—Yes.

Did you see Mr. Alexander Marsden, in London, upon the subject of those letters?—Yes.

Was he a very old man?—Yes, I should think upwards of seventy years of age.

By GURNEY, B.—When did you see him?—In 1832, for the first time.

By Sir JAMES SCARLETT.—Did you apply to him, upon the subject of those letters he had received from Marsden?—Yes.

Did you see them?—Yes.

Did you see them, as they stand now?—Yes.

Did you observe the back of one of them?—Yes; it is in the same state as now produced.







Did you see that pencil-mark *D* upon it?—Yes.

The same as it is now?—Yes.

Did you see the inside of the letters?—Yes.

Were they in the same state as they are now?—Yes.

ATTORNEY-GENERAL.—We mean to make no point of that, I dare say they are in the same state.

*Mr. Thomas Crook* sworn. Examined by Sir JAMES SCARLETT.—Were you a clerk in the bank of Messrs. Worswick?—Yes.

When did that bank fail?—In 1822.

How long had you been a clerk in that bank?—Rather more than twelve years.

Did you know Mr. Wright?—Yes.

Had he an account at the bank?—Yes.

Was it a considerable account?—It was.

Was he a creditor of the bank, at the time it failed?—He was.

To what amount?—£6,980. odd.

Were Mr. Marsden's rents paid into that bank?—They were.

Who brought them generally?—George Smith frequently; sometimes Wright himself, and on some occasions the tenants paid themselves.

To whose account did you credit them?—Mr. Wright's.

Had Mr. Marsden any account whatever with you?—None.

Mr. Wright wished the money to be paid in town?—Frequently.

How was that, by giving credit on your bank in London?—Yes.

Are you well acquainted with Wright's hand-writing?—I have seen much of his correspondence; I have very often seen him write.

Look at that endorsement there, and tell me if that be his hand-writing—(handing a letter to the witness)?—I have no doubt of it.

Sir JAMES SCARLETT.—This is an endorsement upon Mr. Greene's letter, of the 20th March, 1799, with Mr. Morgan's valuation of the living of Gargrave inclosed.

Now, be so good as look at the end, and say, if that is Mr. Wright's hand-writing—(handing it)?—I can have no doubt of this.

Sir JAMES SCARLETT.—It is his writing; this is a letter from Mr. Barrow, when in Lancaster, dated 29th December, 1787; is that also the writing of Wright—(handing a letter)?—Yes, it is dated 6th July, 1788, also to James Barrow, in London.

Look at that, (handing another), is that Wright's hand-writing?—The signature is his; the letter I think not; the date is his, I think.

By GURNEY, B.—What is the date of that?—The 6th of January, 1807.

By Sir JAMES SCARLETT.—Whose hand-writing is the body of it?—I do not know exactly how he would write at that time, but it has the appearance of Mr. Smith's.

By the ATTORNEY-GENERAL.—Look at that again; is not the whole of it in Wright's hand-writing—(handing back the letter)?—I am inclined to think it may probably be his, but there are some parts of it not like his hand of later years.

ATTORNEY-GENERAL.—Beyond all doubt it is his hand.

By Sir JAMES SCARLETT.—What do you say to that—(handing another letter)?—I should say, here also, that I have considerable doubt, as to that last letter and this, but the date and the signature are Wright's.

What is the date of it?—August 4th, 1809.

Look at that; “September 1st, 1809”?—This is less like his signature.

Do you believe it to be his signature?—I have considerable doubt of that being his signature.

ATTORNEY-GENERAL.—I will admit it to be all in Wright’s handwriting; that is the 1st of September, 1809.

Look at that other one—(handing it)?—The whole of this is Mr. Wright’s, dated 6th December, 1809.

Now, look at that one—(handing another)?—The signature is Mr. Wright’s; I have doubts if any other part be his.

GURNEY, B.---What is the date of that?

ATTORNEY-GENERAL.---The 19th of July, 1812.

There is no doubt about this letter; not the slightest doubt of it.

Do you think that is all his hand-writing; look at that letter again?—

There are certain parts of it that do not appear, in my judgment, to be his usual character; there are some parts that lead me to doubt; but I should say, the signature was his hand-writing, and I am inclined to think the other part of the letter may be his.

When you come to this word, “*neighbourhood*,” the first syllable, “*neigh*,” a part of the *h*, is written upon an erasure; tell me if you believe those letters, *neigh* be Wright’s hand-writing, or whose hand-writing, do you think they are?---I should say there is one letter in it that makes me strongly believe it to be Mr. Wright’s; but for that one letter, the *g*, I should not be able to fix that, if I had not seen it in such a letter as this, but seeing it here, I think it is Mr. Wright’s.

Such a letter as the “*g*” is marked, as characteristic?—Decidedly I think so.

Sir JAMES SCARLETT.—This letter is dated the 1st of June, 1830; your lordship shall have them all. In looking at this original letter, you will find the word “*excise*” is spelled right, and the christian name, *Alexr.* in this other one, is with two “*ll*’s,” and the excise is left without a “*c*,” (handing up the letters to his lordship.)

GURNEY, B.---I think I had better shew these letters to the jury now.

ATTORNEY-GENERAL.---They have seen them once.

*Juror*.—We should wish to see them again now.

GURNEY, B.—In two of them the word “*excise*” is spelled right, in the last it is spelled without the “*c*,” and the word Alexander is spelled right in the two first, and in the last with two “*ll*’s” (handing them to the jury.)

ATTORNEY-GENERAL.—If it were not improper, I should wish to have had those letters to examine up first, before the jury saw them, as they would see them with more advantage afterwards.

Cross-examined by the ATTORNEY-GENERAL.—I would wish to put a question about those letters, while they are in the hands of the jury.

Did you observe that letter, in which there are those four letters and a half in that syllable of the word “*neighbourhood*,” did you compare it with the end of the word June above; did you compare the “*ne*” in “June” with the “*ne*” that begins the word “*neighbourhood*”?—I did not do so.

ATTORNEY-GENERAL.---I wish the jury to direct their attention to it.

GURNEY, B.—Certainly, you will look at that, Gentlemen.

ATTORNEY-GENERAL.—Has your lordship seen it?





GURNEY, B.—No ; I will look at it when it comes from the jury.

(The jury here returned the letters to his lordship.)

ATTORNEY-GENERAL.—Will your lordship be so good as look at the “*ne*” in June, and the “*ne*” in neighbourhood.

GURNEY, B.—I have done so.

Now, Mr. Crook, just look at the “*ne*” there, and the “*ne*” in that other word, and observe the turn of the “*n*” at the bottom, and the manner in which it joins the “*e*,” and tell me if you do not think that the “*ne*” in neighbourhood is written by the same person as wrote the “*ne*” in June?—Part of the “*n*.”

Just answer the question—do not you think that is the same person who wrote those?—Part of the “*n*” is the same ; but I think the latter part of the “*n*,” and “*ei*,” and “*g*,” and part of the “*h*,” is another hand.

By GURNEY, B.—Do you think it the same writing?—It may ; there is very little room for discrimination, as to the writing it may be the same ; but I still doubt that it is the same, and I do think there is a difference.

By the ATTORNEY-GENERAL.—I call your attention to the second part of the letter “*n*,” whether it be not precisely the same as the second part of the letter “*n*” above?—I still retain my doubts.

ATTORNEY-GENERAL.—Allow me to call the attention of the jury to the second part of the “*n*,” (handing the letter to the jury.)

Mr. Crook, you do not appear to be particularly familiar with Wright’s hand-writing?—I have not seen him write for the last ten years, but before that year 1813, I saw him write very often.

Did you ever see him write anything but his name?—Yes.

What?—Notes upon country firms, orders for credits, and checks, frequently.

Is that letter, which you state to be in the hand-writing of George Smith, in your judgment is it the hand-writing of Wright, or not?—Mr. Wright’s hand-writing is more careful.

Is it your belief that it is Wright’s hand-writing or not?—I still retain my doubts.

Is your doubt one way, and your belief the other, or do they equally preponderate?—I can scarcely say which does preponderate ; there are certain parts of the letter which have strong indications of Wright’s hand-writing but he has written them more carefully than he usually wrote ; I give that the reason of my doubt.

You observe that those four letters and a half are written upon an erasure?—Yes, so I see.

Then the writer, whoever he was, would take particular pains to avoid making a blot?—I think he would.

And by so carefully making any letter, do you think that that is a favourable occasion for ascertaining hand-writing?—I think not ; I had expressed that opinion before.

Do you think you saw so much of Wright’s hand-writing, as to be able to swear to half a letter?—I do not swear to it.

Would you swear to your belief of it?—It is certainly upon an erasure. and I think with different ink, and I believe the “*g*” to be Mr. Wright’s.

Do you not believe the letters “*ne*” to be Mr. Marsden’s?—It may.

Sir JAMES SCARLETT.—We will now read those letters from Wright to Barrow, in the order of their dates.

The following letter was produced and read by the Clerk :—

Letter from George Wright to Mr. Barrow, at Lancaster, dated 29th December, 1787.

“DEAR SIR,—We have been just measuring the road the length of it is 843 yards Devided by 7 makes 120 roods and 3 yards which is 4 yards less then we called it but this error I can very casey acct. for it . . . . being measure by a Coard the first time and now by the Chane which is the more exact way of measuring—Mr. Croft was so good as take a walk with us whilst we was measuring it who will be able to speak to the fairness of it.

I am Dr. Sir, Yours Sancearly

29th. Decr. 1787

Mr. Barrow Atty Lancaster

GEO. WRIGHT

Then were read and put in the following letters :—From George Wright to James Barrow, Esq. dated Wennington Hall, 6th July, 1788.

Wennington Hall 6th July, 1788

DEAR SIR.—I was favored with yours by last night's post which I own surprised ne much to see it dated at Manchester so late at night still more so to hear you were on your journey to a place you so little expected the last time I had the pleasure to see you. I must own it gives me pleasure to hear that you are gone to Town, “as it will give me an oportunity of troubling you with a little bussines which I think will never be brought to a conclution without you do it; that is to get the Costs taxed whilst you are in Town as the Award in our favor will be of little service if the Costs is not paid. If you think it proper to mention to Greene that the plans of the Hornby Estate wou'd be of Infinite service to Mr. Marsden whilst he is letting the Estate as likewise Mr. Gray valaiaion shou'd they think proper to give him liberty to give it to Mr. Marsden. The discharges are not yet come down and I am afraid least they shou'd be sent too late for the tenants to Quit this year If what I have wrote on the other sid meets with your aproba-tion and you have time to do it the rest I will leave entierly to your self as you can judge the best what to do and what to leave undon in those matters Mr. Marsden and Mrs. Cookson desires their best Compliments to you and you Brother to whome I desire to add mine and likewise to Mr. Bleasdale.

I remain, Dear Sir your

Most obdt. and very Hble Servt.

GEO. WRIGHT.

P. S. please to ask Mr. Greene if he has received from Hartley the £35 which he left unpaid of Kayleys purchase money

James Barrow Esq.

No. 1 Lambs Buildings

Inncr Temple

London

From George Wright to Giles Bleasdale, Esq. dated 6th January, 1807.

DEAR SIR—I was sorry I could not send you you some Game against Xmas, the wether was so very severe there was no geting any. I have sent a little in the Box with this and hope you will receive it safe.

Lord Lonsdale's Agent called upon me a few days ago wishing to purchase the Small Estate of Miss Tatham's near Lowther, which you may recollect we saw, as we were, travelling from Askham, to Penrith. I think his Lordship will give a







good price for it—I wish to have your sentiments upon it and whether you would advise Miss Tatham to sell by private or public—Your answer when convenient will much oblige

Dear Sir

Yours very sincerely

GEO: WRIGHT.

The family at the Castle begs to be kindly remembered to you

Giles Bleasdale, Esq.

Hatton Court, Threadneedle Street, London.

From George Wright to Giles Bleasdale, Esq. dated 4th August, 1809.

MY DEAR SIR,—I was favored with your letter and the Opinion which I got at Lancaster yesterday.—Mr. Sharp met the council at Newcastle and he said that he had wrote to you from that place respecting the Cause—They had offered to take the admittan each party paying their own Costs which I believe Mr. Dowbiggin has agreed to so there is an end of it—I find that the Lawyers are desirous of having the other put off till the next Assizes which I have lef entirely to you Gentlemen of the Law I don't believe that Londmoneagle ever forfeited the Estate I rather suppose that he was once fined a certain sum of money

I feel very anxious for your health and am sorry you should have had so much trouble with our business I shall be extremely happy to see you at the Castle and I hope you will make it your home as long as you can and it will give me pleasure to meet you any where on the road within 50 miles of home as I can go with my Gigg that distance in a day very well.

Should one of your Clerks be going through Ludgate Street I will thank you to let him call upon Wilkinson the Gunmaker and desire him to send my Gunns—The family at the Castle beg their best respects to you.

I am My dear Sir very sincerely yours

GEO. WRIGHT.

To Giles Bleasdale, Esqr,

Hatton Court, Threadneedle Street, London.

From George Wright to Giles Bleasdale, Esq. dated 1st Sept. 1809: in which he says—

Hornby Castle, 1st Sept. 1809.

DEAR SIR—I have just got two Brace of Moor Game which were killed to day I hope you will receive them safe There will nothing give me greater pleasure then to see you at Hornby Castle. If I could know what day you would be at Lancaster I should be happy to meet you there

I am Dear Sir Very faithfully yours

GEO. WRIGHT.

Giles Bleasdale Esqr Hatton Court

Threadneedle Street London

Sir JAMES SCARLETT.—The next letter is dated 6th December, 1809, which was just after Miss Tatham's death, she having died in the November of that year; it is from George Wright to Giles Bleasdale, Esq.

Hornby Castle 6th Decr. 1809.

MY DEAR SIR—I received both your obliging Letters I did not answer them

sooner as I wished to give you an account of the arrival of your most bountiful present to Eliza, which came here by the carrier on Saturday evening in as good order as could be expected from bad packing, there is very little damage done but what one of Mr. Gillow's men can repair with a little glue.

I feel myself under greater obligations to you than any person living & you are still laying me under greater every day; and I shall never be able to make any return—I mean to accep you young cow & calf as it will give you pleasure to see them.—I must insist upon selling the Red Scott and placing the amount to your credit.

Miss Tatham died on the 24th Novr. and was interred at Lancaster the week following.

I found the will as you mentioned and am at a loss what to do, whether to administer to her effect, or not; as I find from Mr. Dowbiggin there will be some difficulty in getting the business settled in Chancery, and the friends of Shuttleworth will give me all the trouble the cann.

Upon enquiry I find the Danby rents has been regularly received by a man at Danby and they are now in his hands, and I am afraid he will not part with them without some trouble,—The Leases for the Rent are in the hands of Mr. Cross of Preston one of Shuttleworths Assignes and he would not give them up when Mr. Dowbiggin was there a little before Miss Tathams death, I shall be much obliged to you for your sentiments upon this business As to the Free Warren it must now rest with the Lawyers what they advise must be done.

I have ordered a few apples to be sent you and suppose they will set out some time next week to be with you by Xtnas, and a piece of beef which will be ready I hope by that time. I have sent you by Mail which will accompany this a hare and three woodcocks. I would have sent more but the weather has been so very wett that they men could not get out—as to my own part I am confined to the house at present having been a good deal hurried and caught a Cold which has brought on my old complaint but I hope it will go off in a little time—I wish the Servant who is coming to you may answer as it would give both Mrs. Wright and myself pleasure to be of the least service to you I am glad you have sent no Oysters and beg you will not send so many The family at the Castle begs to be kindly remembered to you and believe me to be

My Dear Sir,

Most faithfully yours,

GEO. WRIGHT.

Sir JAMES SCARLETT.—I put in this next letter, not so much for the matter it contains, as to shew that in the year 1812 Mr. Wright's style was improved from what it was in former times.

Letter from George Wright to Giles Bleasdale, Esq, dated 19th July, 1812.

“ Hornby Castle 19th July, 1812.

“ MY DEAR SIR,—I feel myself much obliged by your kind proposal of bringing Eliza with me to Town but I am afraid it will not be convenient at present as I must not be any length of time from home and she is a very bad travler in a Chaise.

I should be glad if you would inform me about what time you could leave Town and I will be there a day or two before that I may have the pleasure of your Company down again—Margaret and Jane are losing no time by their staying here they attend Mr Procter twice a day so that it will be no inconvenience for them to waite till you can return with me, Margaret and the family





begs to be kindly remembered to you & begs you will (when you see Mrs. and Miss Hemmings) give their kind regards to them with my best respects to Edwd.

I am my dear Sir

most faithfully yours

GEO. WRIGHT.

P. S. Your Hay is all got in without any Rain It began to rain a little yesterday and to day we have had a great deal—The Weather appears to be much the same here as with you—we have had very hot days & frost in the nights so much so as to bring off many of our peaches.

To Giles Bleasdale, Esqr.  
Hatton Court, Threadneedle Street,  
London."

Sir JAMES SCARLETT.—The next letter is from Mr. Greene to Mr. Marsden, with Mr. Morgan's valuation of living of Gargrave inclosed. It is endorsed 20th April, 1799.

Fordworth Court, Gloucestershire, 20th. April 1799

DEAR SIR,—In consequence of your letter I drew up an anonymous case for the opinion of Mr. Morgan as to the value of Gargrave I guessed at the age of Mr. Croft & the rest of the case was from your own statement I yesterday received the copy of his opinion which I inclose—I beg my complts to Mr. & Mrs. Wright & Miss Tatham.

I am Dear Sir

Your obliged & obdt. servt.

THO: GREENE

On asking Lord Ducie to  
frank this he begged me to insert his complts to you

P. S. You were so obliging to say in one of your Letters that you shod. the then next week send me a salmon—As it never came to hand I think it right to mention it lest you shod. have sent it & it shod. have been embezzled not to put you in mind of it for I wod. not have you put yourself to so much trouble as you are bountiful enough in presents without it—Mr. Lefevre was not in Town I inclosed him your letter.

John Marsden Esqr  
Hornby Castle  
Lancaster

M is seized in Fee of the perpetual advowson of H.—The incumbent is about the age of 54.

It consists of Glebe Lands let at per annum - - - - - 105 0 0

The parsonage house and part of the Glebe occupied there-  
with is worth - - - - - 80 0 0

Composition of Tythe paid by the parishioners - - - - - 260 0 0

Interest of money for Glebe Land taken into the canal up-  
wards of £200. - - - - - 10 0 0

Surplus fees &c. - - - - -

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405 0 0

Your opinion is desired what money should be required for the sale of this Advowson.

Deducting a reasonable sum for the Curate's Salary the present value of the above Advowson will be two thousand eight hundred and twenty-two pounds—but if the living produces after every deduction a nett annual income of £405, the value of the Advowson will be three thousand one hundred and seventy-five pounds.

WILL. MORGAN.

Equitable Assce. Office 10th April 1799

Sir JAMES SCARLETT.—There is a copy of Marsden's letter, containing an account of the living. There is also Mr. Greene's answer produced, and then there is Wright's endorsement upon it, when put into the cupboard. There is also a letter from Mrs. Cookson to Mr. Greene produced, amongst those that my friend said came from the papers of Mr. Greene.

ATTORNEY-GENERAL.—The officer has produced the parcel which he received from Mr. Greene. I will take it that they are sent by Mr. Greene.

Sir JAMES SCARLETT.—Then, among the last, this one appears, upon which there is an endorsement; I do not know by whom, but it is to this effect; "Mr. Marsden's letters relating to the purchase of Hornby Castle." Then there is one from Sarah Cookson, having relation to some subject, mentioned by Marsden, and mentioning the name of the gentleman alluded to by him.

ATTORNEY-GENERAL.—The letter itself to him cannot become evidence.

Sir JAMES SCARLETT.—No; but he refers to them, and says he approves of them; they begin with August, 1787.

ATTORNEY-GENERAL.—We have no letter of that sort that Mr. Greene produces.

GURNEY, B.—Sir James, there is nothing from which I could infer that he could refer to that letter, but, as I said before, my desire is to receive every thing that is evidence; my impression is against it.

Sir JAMES SCARLETT.—I am not anxious about it. It was a letter that was read the last time, by my learned friend himself.

ATTORNEY-GENERAL.—I am not aware of that.

Sir JAMES SCARLETT.—Now we will call for Mrs. Cookson's will.

ATTORNEY-GENERAL.—We have the original, and we will put it in. There is the original will (producing it).

The Clerk then read the will of the late Mrs. Cookson, as follows:—

This is the last Will and Testament of me, Sarah Cookson, of Wennington Hall, in the County of Lancaster, widow, made the twenty-sixth day of August, in the year of our Lord Christ, 1791. I give, devise, and bequeath, unto George Wright of Wennington aforesaid, gentleman (whom I do name and appoint sole executor of this my will), all and singular my estate and effects whatsoever and wheresoever, and of what nature, kind, or quality soever, real as well as personal, to hold to him the said George Wright, his heirs, executors and administrators, upon the trusts and for the ends, intents and purposes, hereinafter mentioned, expressed and declared, of and concerning the same, that is to say; in trust in the first place, to pay thereout all my just debts, funeral and testamentary expences, and I do declare it to be my will and mind, and do accordingly direct, that my said executor shall not expend more than twenty pounds in or about my funeral, and that the persons to be invited shall be confined to the villages of Wennington and Melling, save only that Dr. Bickersteth and Mr. Barrow, may be added thereto: and upon further trust as to all my estate, right, interest, shares and property, in the canal or inland navigation, usually called the Leeds and Liverpool canal, and in the money secured thereby, to permit and suffer my nephew Henry Tatham to have, receive and take the rents, interest, income, and annual proceeds thereof, during his natural life, and in case he my said nephew should marry, then upon like trust for his wife, during her natural life, and







immediately from and after the death of my said nephew (subject only to the interest for life, intended for his said wife, if there shall be any such), in trust for such person or persons, and in such sort, manner and form, as my said nephew shall, by his last will and testament, or by any writing in the nature of a will duly executed and attested, direct or appoint; and, in default of such direction or appointment, then in trust for such person or persons, as may at law be at the time of the death of my said nephew entitled thereto; and upon further trust, to deliver to my said nephew, John Marsden, my watch, and all my rings, plate, jewells, trinketts, china ware, pictures, and handsome bound books, which I do give and bequeath to my said nephew. And upon further trust, to give to Rebecca Dodin, my olave silk gown, with suitable linnen for the same; and to give to Miss Elizabeth Tatham, all my other silk gowns, with the best of my body linnen, and such of my other wearing apparell as she may make choice of; and to divide the residue of my wearing apparell amongst the female servants who may be living at Wennington Hall, at the time of my decease; and I do direct, that my executor shall not give mourning to any any of the servants. And as to the residue and remainder of my estate and effects, and especially my monies, securities for money, my new Testament, with Dr. Dodd's notes, my household goods and furniture, my bed linnen, and all and whatsoever else I shall dye possessed of—subject only to the deductions and trusts in this my will contained. I do declare that the same is by me given, devised, and bequeathed to the said George Wright, to and for his sole use and benefit. In witness whereof, I, the said Sarah Cookson, the testatrix, have to this my last will and testament, consisting of two sheets of paper (adding thereto, that it is my request, that my executor shall pay amongst the poor people in Wennington and Mel-ling, the sum of five guineas), subscribed my name and affixed my seal, that is to say, my name to the first sheet, and my name and seal to this last sheet, the day and year first before-written,

SARAH COOKSON, L. S.

Signed, sealed, published, and declared by the testatrix, Sarah Cookson, in the presence of us, who in her presence at her request, and in the presence of each other, have subscribed our names as witnesses thereto.

HENRY BICKERSTETH,  
ROBERT HUMBER,  
JAMES BARROW.

SIR JAMES SCARLETT.—Now, we ask for Miss Tatham's will.

ATTORNEY-GENERAL.—Here is an office copy of it.

SIR JAMES SCARLETT.—That is the same thing; we have the original in Court. There is no doubt it is Miss Tatham's hand-writing.

The Clerk read the will of Miss Eliza Tatham, dated 20th April, 1808, and codicil of 10th October, 1809.

I, Elizabeth Tatham, spinster, residing at the house of John Marsden of Hornby Castle, in the county of Lancaster, Esquire, do make this, my will, as follows:—I give unto the said John Marsden one hundred pounds, as a small acknowledgment for the many obligations I have received from

him. I give, devise, and bequeath all my real and personal estate whatsoever, unto Mr. George Wright, of Hornby Castle aforesaid, his heirs, executors and administrators, upon trust, to sell and convert the same into money, at such time or times, and in such manner, as to him or them shall seem meet, and to pay and divide the same unto and amongst all his children, which shall be living at my decease, equally share and share alike; and I appoint the said George Wright sole executor of this my will. In witness, whereof, I have hereunto set my hand and seal, this twentieth day of April, in the year of our Lord one thousand eight hundred and eight.

ELIZABETH TATHAM.

Signed, sealed, published, and declared, by the said testatrix, as and for her last will and testament, in the presence of us, who, in her presence, and at her request, and in the presence of each other, have hereunto subscribed our names as witnesses thereto.

GILES BLEASDALE,  
GEORGE SMITH,  
THOMAS WALLER.

Hornby Castle, 10th October, 1809.

I give the legacy of fifty pounds, lately bequeathed me by my aunt, Mrs. Alicia Tatham, deceased, unto Mrs. Wright, wife of George Wright, Esq. my executor.

ELIZABETH TATHAM.

Witness. GILES BLEASDALE,  
GEORGE SMITH,  
JOHN DOWBIGGIN.

Sir JAMES SCARLETT.—Now, we ask for the will of Giles Bleasdale.

ATTORNEY-GENERAL.—We have the office copy here (handing it in); I may observe that Miss Tatham's will was proved under £3,500.

Sir JAMES SCARLETT.—That may be taken to be so; a copy of Bleasdale's will will do.

ATTORNEY-GENERAL.—It is proved under £16,000.

The Clerk of the Court then read the will of Giles Bleasdale, as follows:—

*Extracted from the Registry of the Consistory Court, at Lancaster, within the Archdeaconry of Richmond, in the Diocese of Chester.*

I, Giles Bleasdale, heretofore of Threadneedle-street, London, but now of the parish of Tatham, in the County of Lancaster, do make this, my will, as follows:—I give and devise my freehold messuage, with the appurtenances, situate at Leeds, in the county of York, unto George Wright, Esq., and the Reverend John Marsden Wright, and their heirs, upon trust, to sell and dispose thereof, when and as they shall think proper, and their receipts shall be good discharges for the purchase monies for the same, and to apply the monies arising therefrom, and the rents thereof in the meantime, for the benefit of Elizabeth, the daughter of the said George Wright, and wife of Thomas Brancker, merchant, for her separate use, for her life, with power for her to dispose thereof by her will only, and in default thereof, in trust for





her next of kin, as if she were sole and unmarried. I give and devise my small pieces of ground at Tunstall, late parts of the waste there, unto my godson, Henry Wright, his heirs and assigns for ever. I give unto my nephew, Edward Overton, the sum of seven hundred pounds, and to his children three hundred pounds, in such shares and manner as he shall think proper. I give to my nephew, William Overton, the sum of one thousand pounds, and also the further sum of five hundred pounds, having promised his late aunt to bequeath him that sum in her name. I give unto Mary Overton and Ann H. Overton, the two minor daughters of my late nephew, Thomas Overton, the sum of five hundred pounds each. I give unto their mother, Maria Overton, widow, the sum of four hundred pounds. I give unto my said nephew, William Overton, the sum of six hundred pounds, in trust, for the children of my late nephew, John Overton, in such shares and manner, in all respects, as to him shall seem meet; all the above legacies to be payable at the end of six calendar months next after my decease, or with interest from that time. I give to the trustees for the time being, under the marriage settlement of Charles Humberston, merchant, and Jane, his wife, daughter of the said George Wright, the sum of one thousand pounds, upon the trusts of the said settlement. I give unto the said John Marsden Wright, Margaret Wright, Dorothy Wright, Henry Wright, and William Wright, the sons and daughters of the said George Wright, the sum of one thousand pounds each. I give unto each of my servants, who shall be living with me at my decease, one year's wages as legacies, free of the legacies tax, and also mourning. I give, devise, and bequeath, all the residue of my real and personal estate unto the said George Wright, his heirs, executors and administrators, absolutely for ever; and I appoint the said George Wright and John Marsden Wright, executors of this my will. In witness whereof I have hereunto set my hand and seal, this fifth day of January, in the year of our Lord one thousand eight hundred and thirty—GILES BLEASDALE (L. S.) Signed, sealed, published, and declared by the said Giles Bleasdale, the testator, as and for his last will and testament, in the presence of us, who in his presence, and at his request, and in the presence of each other, have hereunto subscribed our names as witnesses thereto—(the words, "each, and, at Tunstall," being first interlined in the first page.) John Edmondson, Grassyard-hall; Henry Faithwaite, Pottyeats; Wm. Sharp, Lancaster.

Codicil to my will.—Wenning Cottage, 29th January, 1831.—As I now understand, that my late nephew, John Overton, has four children living, I hereby give unto my nephew, William Overton, the further sum of two hundred pounds to be by him applied for their benefit in like manner as the sum of six hundred pounds by my Will, given in trust for that purpose.

GILES BLEASDALE.

1st November, 1831.—I include Richard Foxcroft and John Foster in my servants, to whom, by my Will, I have given legacies above their wages, also mourning.

GILES BLEASDALE.

In the Consistory Court at Lancaster, within the Archdeaconry of Richmond, and Diocese of Chester. In the goods of Giles Bleasdale, Esquire, deceased, Appearing personally John Sharp, of Lancaster, in the County of Lancaster, Gentleman, and William Winder of Lancaster aforesaid Book-keeper, and being respectively sworn, severally make oath and say that they knew and were well acquainted with Giles Bleasdale, formerly of Threadneedle

street, London, but late of Wenning Cottage, in the parish of Tatham, in the said county of Lancaster, Esquire, deceased; and also with his manner and character of hand-writing, and subscription, having, on different occasions, seen him write and subscribe his name, and both these deponents having with care and attention viewed and perused the paper writing hereunto annexed, being or purporting to be codicils to the last will and testament of the said deceased, the first codicil thus, "Codicil to my will, Wenning Cottage, 29th January, 1831," and subscribed, "Giles Bleasdale:" the second codicil beginning thus, "1st November, 1831," and subscribed "Giles Bleasdale:" severally further say and depose, that they do verily and in their consciences believe the whole series and contents of the said codicils or paper writings, with the name Giles Bleasdale, severally set and subscribed thereto, is the proper hand-writing and subscription of the said Giles Bleasdale deceased.

JNO. SHARP,  
WILLIAM WINDER.

On the ninth day of April, one thousand eight hundred and thirty-three, the said John Sharp and William Winder were severally sworn to the truth of this affidavit, at Lancaster aforesaid, before me,

JOHN MANBY, Surrogate.

Proved in the Consistory Court, at Lancaster, on the ninth day of April, one thousand eight hundred and thirty-three, by George Wright, Esquire, and the Rev. John Marsden Wright, Clerk, the executors therein named.

WM. SHARP, Depy-Regt.

Effects sworn under £16,000.

SIR JAMES SCARLETT.—I ask my learned friend for the mortgage granted to Bleasdale for £13,000, which was not produced amongst the deeds. My friend, I understand, has no objection to admit it.

ATTORNEY-GENERAL.—There are two mortgages; I will give the dates of them; the first is dated 14th February, 1818, for £10,000.

SIR JAMES SCARLETT.—That is a transfer of a former mortgage.

GURNEY, B.—Is that among the documents that are produced?

SIR JAMES SCARLETT.—No, my lord, it is not.

GURNEY, B.—What is the next?

ATTORNEY-GENERAL.—It is dated the 14th of February, 1820, for £3,000.

SIR JAMES SCARLETT.—Does it appear who were the witnesses?

ATTORNEY-GENERAL.—No, not in the answer in chancery, which I am looking at—it does not appear.

SIR JAMES SCARLETT.—I am happy to inform your lordship, and the gentlemen of the jury, that that is my case.

GURNEY, B.—Is the conveyance by Marsden, of Wennington Hall, among the deeds you produced?—I think it is.

ATTORNEY-GENERAL.—No, my lord, I think not.

SIR JAMES SCARLETT.—It is not.

After a short interval, the learned counsel, Sir James Scarlett, withdrew from the court, previously to the Attorney-General commencing his reply.







The ATTORNEY-GENERAL in reply.—MAY IT PLEASE YOUR LORDSHIP—GENTLEMEN OF THE JURY—in rising to reply at the close of this long investigation, I should only wish that I could address you in the language of as undiminished pleasure as I did in the first instance, and that I could address you with that calmness, which I admit, to a certain extent, ought to belong to the occasion—but there are circumstances which probably must have transpired to some of you, which are calculated to excite in me at least the deepest impression; and to Mr. Lister Marsden the victory of to-day, although it may be a triumph, will still be an event of diminished joy: for, gentlemen, while we have been ascertaining the facts in this case, this young gentleman, Mr. John Lister Marsden, has experienced a severe adversity, by having had the misfortune to lose his mother—to him a misfortune as severe as possibly he could have met with. My young friend, who was here during the preceding part of the trial, had to retire upon account of his mother's severe indisposition; he has now returned, having left the bed of a dying mother, to which he went to console his surviving father; but he had previously committed to me the care of so much of the interests of the living and the reputation of the dead, that I must summon all the fortitude I possess, and all the exertion that I can use, to discharge the duty that has been devolved upon me in this most singular and most important investigation. Although the pleasure I entertain in addressing you be now somewhat diminished from what it was previously, by that misfortune having occurred to which I have just now alluded, yet, under these circumstances, I am entitled to enter my claim for your indulgence, while I trespass yet farther upon your patience. I do trust that you will feel with me, while I make such comments upon the case of my learned friend, which you have just now heard, as that case may call for. Gentlemen, I should also be desirous of addressing you, as far as I can, in language as much unimpassioned as if the event alluded to had not occurred. But I do not profess to address you in that cold, metaphysical style of an individual just glancing over the proceedings, in coming to observe upon the inquiry that has taken place about the mind of Mr. Marsden. I say, gentlemen, at once, he who does not bring to this cause a heart to feel, as well as a head to think and decide upon its merits, comes utterly unprepared to the discussion of this question. Gentlemen, much that you will have to consider will deeply depend upon your degree of feeling (I mean the genuine feeling of the heart and sentiment of the mind) with which you should enter upon the subject matter of a cause that deliberately requires your reasoning faculties.

Gentlemen, the form of this question is, undoubtedly, merely whether Admiral Tatham be to possess Hornby Castle and its appurtenances, and the other property of the deceased John Marsden, or whether it be to go from time to time according to the will and

disposition of it, which the deceased John Marsden made, some years previous to his death, which that young gentleman, Mr. Lister Marsden, has been brought up to hope for, and told to expect, and which his father before him, for thirty years, has been looking to, not as an inheritance, but as an expectant and chosen relative of the testator. Gentlemen, that is the form of the question, in the familiar and well-known expression of its nature; the legal form of it, however, is whether John Marsden could make a will such as that now under your consideration, practically; that is the question which you have to decide, or, to put it still more intelligibly, it is this, namely, whether there has been a monstrous fabrication committed, an unparalleled falsehood told, and which fabrication and falsehood it has taken the greater part of sixty-eight years to commit and to tell; a fabrication and falsehood in which no less than some two or three hundred persons have directly contributed to concoct, and to which, gentlemen, no fewer than half of the witnesses for Admiral Tatham have been actually made parties. Whether you be to consign, by your verdict, to infamy, the characters and reputations of not less than from two to three or four hundred persons of respectability may be said to be practically the real question you have to try; for, gentlemen, how stood the case at the death of Mr. Marsden? He had for upwards of forty years been the possessor of Hornby Castle, and all the lands and premises belonging to it. He had, in the course of a long period, without any interval, in the course of so many years, done the most solemn and formal possible acts in the exercise of that possession which he enjoyed. He had contracted with many and various persons; he was addressed by much the larger number of them, and he, in his turn, addressed them in writing, and, in short, he did all those acts openly, in the face of this county which the state of such a large property required. He did all that with the entire knowledge of Admiral Tatham himself, the very individual who has, by his counsel, been endeavouring—who (in the habitual language of a pleader addressing a jury, these nine or ten days, for his client, Admiral Tatham) has been endeavouring to convince you, that all this was a monstrous fabrication from the beginning to the end—and to which, if that were so, his client himself has been a party. Gentlemen, hear the details of the case, and you may very well think (and I would ask his lordship, whose experience in landed property is not only much longer, but better than mine), I ask his lordship whether he ever knew, in all his experience, this mode adopted of trying a man's sanity or competency, and whether, in the whole history of the law, he recollects an inquiry like this—a case of so much difficulty, embarrassment, and complication, to those who have to meet it, and of so much facility to those who have merely to raise the question? I shall ask his lordship and you, gentlemen (while I present this part of the case to you) whether this mode of presenting a man's will and scrutinizing it, be not





monstrous and unheard-of in the annals of the law—and whether, in ninety-nine cases out of one hundred of a similar nature, it must not amount to an absolute denial of justice; but, certainly, it must, in a case where you have to wade through such a mass of matter, and where one hundred and ten witnesses, at least, have been called for the plaintiff. There have been also some thirty or forty witnesses called for the defendant, some of whom have produced deeds and documents, that go back as far as the commencement of Marsden's visits, in 1784, with a correspondence spreading over the whole of Marsden's life-time, sometimes with one, and sometimes with another, amounting to not much less than two hundred letters. Gentlemen, a person of ordinary strength might well stand appalled at such a mass of matter, and decline a task in a case of such lengthy investigation. I must say, had I not been most ably, and most closely assisted by my learned friends around me, I must have sunk under the exertion necessary to conduct this cause. Every part of the case of Marsden was known to the other side from the earliest period to within a few months of Marsden's death. No part of the case of Admiral Tatham, comparatively speaking, could be known to us till the time we met them at York. We had there witnesses called of whom we never heard anything previously; we have met them here once more, and we have had no less than fifty-four new witnesses, of whom, also, it may be said we never heard anything; in fact, the whole life of Mr. Marsden has been raked up to this moment, and put into issue, and in addition to all that, we have had the whole of Mr. Wright's transactions and conduct, for the same length of time, discussed into the bargain. Certainly I must say that, to a certain extent, I throw myself upon your indulgence, and upon your general knowledge, as men of the world, for it is impossible that an inquiry of this sort can be conducted, or can be deliberately considered and discussed, except with a large and liberal indulgence in that respect from you. I think that the case of Admiral Tatham, in some of its most essential parts, might have been modified, and for the very reasons expressed by some of his witnesses, that it turns out to have been without foundation I will come, at once, to the question to be raised, which is one that requires no inconsiderable attention, and if listened to deliberately, I expect, consequently, to have a clear and undisputed right to your verdict.

Gentlemen, this is a most extraordinary inquiry, one of which the like has never been seen in the annals of the jurisprudence of this country! That a man should have been permitted, for sixty-eight years, to have led the life of a gentleman, to borrow and lend money, to buy and to sell property, to grant leases, to do every act which is necessary in ordinary life, and not only no one appearing to gainsay, during his life-time, any single act he ever did; but, at the end of that time, that there should spring up a gentleman who shall avail himself of slanders and rumours, that have been cir-

culated during many years, and that he should have had his agents to collect such rumours together, to prove what?—After all to prove nothing but suspicions, arising from those idle rumours, proved by such a body of evidence. His case amounts absolutely to nothing more nor less than this, that, at the end of sixty-eight years, there is picked up a quantity of rubbish, which, in point of incident and statement, prove nothing of any avail to substantiate his case. Gentlemen, looking back to what I must call the follies and absurdities of boyhood, youth, manhood, and even some of the oddities of more advanced life, is there any man whose will would be safe in this country, if, after his death, after his having publicly acted, as these deeds announce, you were to take the whisperings of the kitchen, the overhearings of something misunderstood, perverted or misrepresented, little circumstances arising entirely through themselves, but when examined into, are perfectly capable of the easiest explanation. It is impossible to believe all of them; I will go through some of them; but this I may say, that, if a will be to be tried by such species of evidence, there is no man in existence, whatever be the arrangements he may make for his family provision, nor for the disposition of his property amongst his friends—there is no man, who can lay his head upon his pillow, for the last time, under the notion that he has done his duty to those around him, without being afraid that some Admiral Tatham, or some selfish friend of his, will, at some period or other, raise a doubt, and state a question to be put in issue, to set aside that will! It might so happen, that the expense alone would drive from the field any man who might have nerve enough to meet him—even one who might happen to have—who had some confidence in the justice of his case.

Gentlemen, you cannot but, by this time, be aware that Mr. Lister Marsden, the father of the young gentleman, who was here some time ago, (but who has retired overpowered, no doubt, by his feelings,) has for upwards of thirty years spent a part of every year with Mr. Marsden at Hornby Castle. When I say that, I do not know that there might not have been one or two years of intermission, but I may say that, for thirty years, the father first, and the son latterly, they have regularly spent a portion of the year with the late John Marsden, as their nearest relation, and as a person by whom they had been chosen to be prepared to rest here, the father being second in relationship, in point of blood to Admiral Tatham himself. You cannot but be aware also, that, regularly every year, Marsden went to spend a part of his time at Giggleswick and Gargrave, where he visited all his friends around, and by whom he was also visited occasionally. It has been shewn to you that, amongst those annual visits for a series of years, Mr. Birkbeck, the banker of Settle, yielding to no man in point of intelligence, yielding to no person in this county in point of honour and integrity, met him and conversed with him, not only upon business, but upon other subjects;







and although he (Marsden) were not a man of strong mind, yet he states that he was perfectly competent, with proper assistance, to attend to transactions of business.

Gentlemen, you cannot have forgotten that this has been going on for thirty-five or forty years—that John Lister Marsden has been brought up from childhood to manhood with these expectations, which this will in question fulfils and which now Admiral Tatham steps in to prevent; he claiming, as the heir-at-law of the deceased, treating Marsden as a fool, and as one utterly incapable of making that will—alleging that he had no sentiment, no judgment—that he had no power of reasoning, nor of forming opinions, and, in short, that he was a perfect child, or as it were, a total blank in the world; but I ask you, can any one, under the circumstances, detailed believe such allegations to be true? Has all that been proved which Admiral Tatham had undertaken to make out? Has he called evidence that can be relied upon, to support his proposition? The onus of proof is upon him; if his case fail—if in a single tittle it fail, it is like a rod of sand, it goes to pieces; it is full of glaring, and outrageous inconsistencies, not unmixed with a considerable quantity of downright perjury, which I submit puts his case entirely out of Court. If it were even so, as you have heard from sundry witnesses, one after another, I ask you, where could they have got together so many individuals that destroy each others' testimony? I ask you, whether a large part of what they state, be not of such a nature, as that no human being could believe? But, gentlemen, whether there be any other party to this inquiry besides Admiral Tatham, and my client, I know not. I ask whether it have occurred to you, as it has to me, that the course that Admiral Tatham has adopted from the beginning to the end of his inquiries, has not been precisely marked with the characteristic of wanting that degree of honour, and delicacy, which one should have expected, if he really had been what my learned friend described him to be? Has his conduct been consistent with that of a man of the highest honour, and scrupulous integrity, a man of noble mind, scarred by the wounds received from the enemies of his country, seeking nothing but an opportunity of submitting his case to the just judgment of an impartial jury of his countrymen? I leave you to judge of that. Now, let us see what Admiral Tatham's case is; it begins with a monstrous and incredible imputation of profligacy upon his own father's sister; he has been making a statement, which is an utter and absolute falsehood; as to the falsehood alluded to, I think I may appeal to you, gentlemen, after making but a few observations upon it, (as I must only do at present, I think I may safely appeal to you, as to whether or not that must have been absolutely false.) But no matter—there is the prospect of Hornby Castle standing wide before him, and the reputation of his father's sister must not be supposed to stand in the way of it; and, like Cataline's conspiracy, in the history of

Rome—"Rome was to be gained, whomsoever was to be sacrificed;" Mrs. Cookson's character and reputation were not to be allowed to stand in the way; if Hornby Castle could be taken by storm, no matter whose character, honour, propriety of conduct, or whosoever chastity were to suffer—"Away with them!" says he, "let me have the Castle." Says Admiral Tatham, "I care nothing for the character of my father's sister, no! nor even the reputation of my cousin, Miss Tatham," as to whom, I believe, there were similar imputations.

Mr. CRESSWELL.—No; there was nothing of the kind stated as to Miss Tatham.

ATTORNEY-GENERAL.—Then, gentlemen, if so, I abandon that part of the subject; I thought it was so stated. At all events, the Admiral has not scrupled to rake up all the gossip, and all the slanders of the surrounding country; all the rumours and gossip of the kitchen, even so far back as fifty years ago—to rake up all the imputations he could collect against his father's sister, even to the age of sixty years, she being an old woman, fit to be his grand-mother. But says the Admiral Tatham, "I value not that old woman's reputation; away let reputations fly, light as air, let me but have the Castle." I trust, gentlemen, this will be to him a castle in the air. Besides Wright and Cookson, there have been other characters and reputations traduced. There has been Mr. Fitzgerald, a barrister, introduced upon the scene, as having been also a party to this conspiracy. Then there have been the late Mr. Barrow and Mr. Baldwin brought in, also as participating in the plot. It appears that one of these gentlemen, Mr. Baldwin, makes an affidavit before the mayor as a commissioner; they could not be ignorant of the real circumstances, as they both previously knew Marsden. It is said that they were perjured, and they were guilty of the worst kind of conspiracy in conjunction with Wright. Besides these, there is Mr. Greene, the father of the present member for Lancaster; he knew Marsden, he had business to transact with him; and he knew well whether he was able to transact it or not. Then there is a series of attornies introduced, several of whom were respectable persons, of this town of Lancaster—they were of the highest character, and yet they were just treated in the same way. There were witnesses, one after another, to the amount of 58 persons, attesting the deeds of about one hundred and forty parties, and they are all treated just in the same way; and yet all these were considered as conspirators, as being privy to the forgeries of vile and gross imputations, which are to be reckoned as nothing, provided Admiral Tatham can get to Hornby Castle! The last of this number is an old gentleman of the highest respectability, in point of character and reputation: I mean Mr. Giles Bleasdale. He having no children of his own, being at the same time in easy circumstances, (he having been for a long period of years, the eldest partner of a respectable





firm in London,) had retired from business, and having become acquainted with Marsden and Wright, from his being resident in their neighbourhood, he is supposed, without any motive on earth, (for he could have none earthly,) to have leagued with Wright, and those others I have mentioned, in concocting and preparing this will for Marsden. I have stated that Mr. Bleasdale was easy in the world, having no wife nor family to support. I ask you what could possibly be offered to him as an inducement to swerve from the path of honour and rectitude, or from that course of integrity which he had pursued through the course of a long life, in this world, and even up to the period of his departure for the next, he having lived to the age of nearly eighty years? What motive could he have in joining others to do that which was not fair and honourable?—was it for the sake of depriving Admiral Tatham of Hornby Castle? Mr. Bleasdale had retired to a cottage in the neighbourhood—he may have been estimated then as being worth about £20,000, and yet, that is the man who is supposed to have entered into a conspiracy of the basest and most infamous kind: and for what? Was it solely for the pleasure of depriving Admiral Tatham of Hornby Castle? Was it in order to gratify any feeling of resentment against Admiral Tatham, or any pleasant reflection he, Bleasdale, could have, in his declining years, that Admiral Tatham might not get there to his so-much-desired port, that he joins others in concocting these fabrications: in making these imputations, and in doing all that is alleged to be disclosed in his examination, which has been read to-day; or rather, I ought to say, in preparing a will, leading to this investigation of ten days? Can it be imagined, for one moment, that that respectable gentleman, who was examined at York, four years and a half ago, would have been guilty of all these machinations—he who had then one foot in the grave, and who has since that former trial, gone to his great account? No: gentlemen, it is impossible to conceive any such thing. Mr. Bleasdale, on the contrary, has been generally supposed up to and at the time of his death, to have closed a life of honour, integrity, and respectability of character. If his character had been otherwise, up to the moment of this alleged conspiracy with Wright and others, such conduct ought to have driven him from the pale of society! If that last act of his life had been such as is alleged, it would have been sufficient to blast all his former reputation, and to have stamped him as one guilty not only of fraud and conspiracy, but of subsequent perjury. This is not the first time, I think, that these imputations have been thrown out. I had propounded them to you in the course of my address to you during these assizes, as being all of them only alleged facts, the most improbable of all statements, the most fanciful and preposterous of all proportion. It would be impossible to conceive a more wicked transaction than they are intended to

demonstrate; but the accusation must have been only thrown out to create the worst impression that ever any of you met with; one can only suppose it to have been practised merely for the purpose of amusement and deception: I mean the supposition that Wright for a period of no less than sixty years had been carrying on this case of fraud and perjury; but, nevertheless, that which I had thrown down as a challenge, my friend has taken up, and he says, "I do present it to you seriously, and I say that Wright, an older man even than Bleasdale, schemed in his earliest youth to get such a power and control over him as to make him leave his property just as Wright thought fit; and as the first step towards this purpose, he made this man sell his paternal property, and to turn Wennington Hall into Hornby Castle!" My friend spoke of the case of Lord Portsmouth as a matter of history, and has introduced Mr. Alexander Nowell as having been one of the jurymen upon that occasion. Mr. Baron Bolland had not that advantage, nor had Mr. Birkbeck, but then, says my friend, "all this is entirely without foundation, for, certain it is, Mr. Marsden was nothing but a poor lunatic, an absolute fool, and an idiot;" this he says on the faith of the evidence of Mr. Alexander Nowell, and a number of his other witnesses. So says my friend:—"all this from the beginning to the end has been nothing more than a farce played off before the English public in the county of Lancaster;" to which tribunal, I am sorry to say, and it really grieves me to say so, scarcely a witness has been called (and Dr. Lingard more especially) who does not present himself rather in the light of a repentant accomplice than in any other character. Gentlemen, I do not mean to use that word, "repentant accomplice," in any offensive sense, but, certain it is, according to my friend's evidence, Dr. Lingard is said to have given his countenance to these transactions. Mr. Nowell dined there a year or two afterwards, and he had found out, out, by his supposed examination of him, that Marsden was a born idiot, a perfect fool. What did Mr. Nowell go there for? Was it not for the express purpose of saying so? Yes, gentlemen, for this, in fact, is Admiral Tatham's case; if it be a conspiracy, who are these witnesses that presented it to you. I would now represent the case as it stands on the one side and the other, and leave you to judge of the witnesses' respectability.

I beg now, gentlemen, to call your attention to some other portions of my learned friend Sir James Scarlett's speech. He has alluded to many other topics worthy of being answered, and I would point out to you some of the circumstances which to me cannot be accounted for, otherwise than as having been stated to impose upon your judgments, always submitting any remark I may make entirely to your better judgment, for I cannot do more than that, after nine or ten days of the deepest attention paid to this cause both in and out of court, both upon your part here and







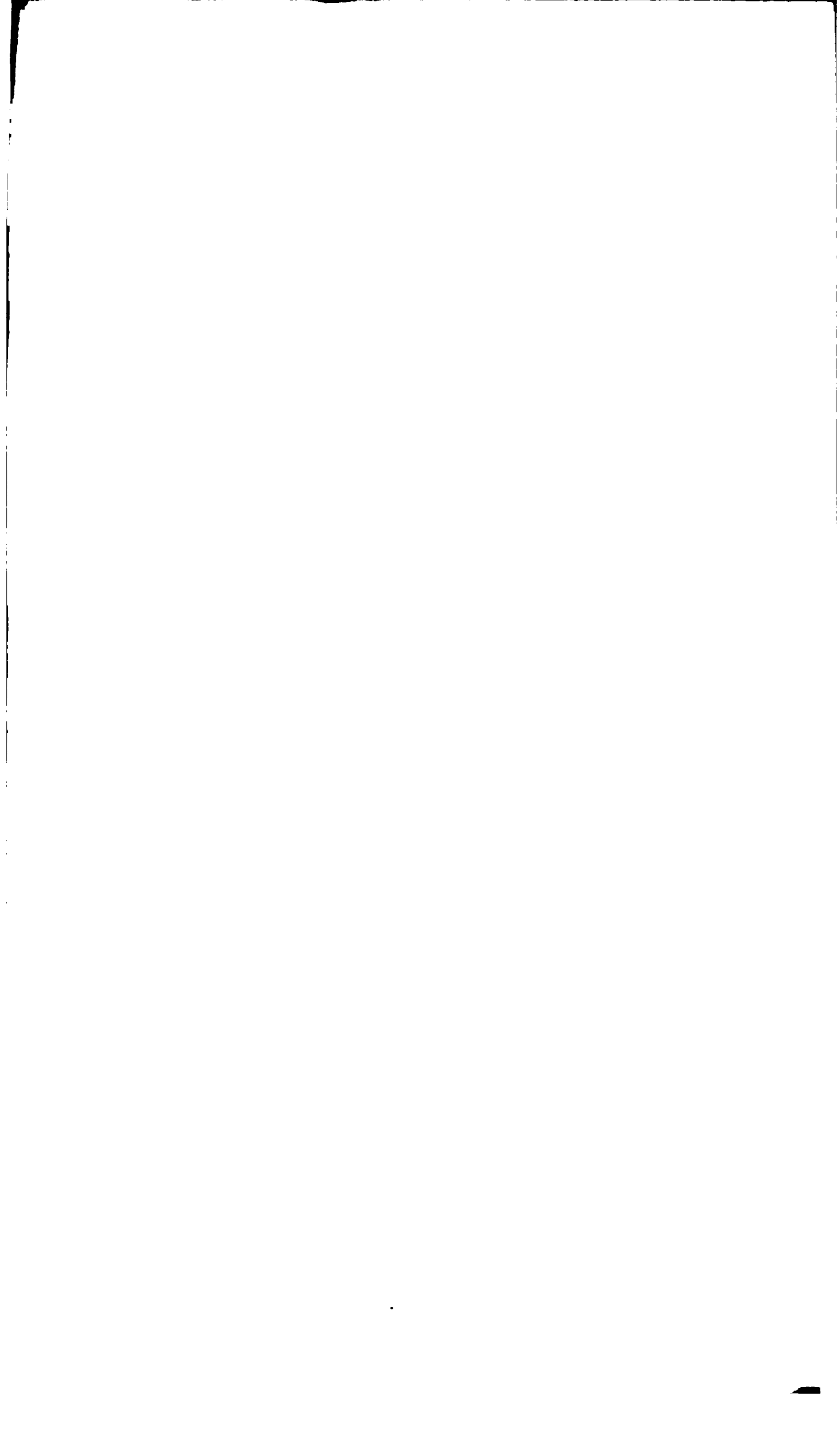
on mine here and elsewhere, for I do assure you that I have experienced the utmost anxiety in arranging, preparing, and investigating the whole circumstances it involves; and I have heard this trial in other respects with the greatest dissatisfaction. On some occasions during these proceedings I have scarcely known whether I were myself or not, or that any will I might myself make could be afterwards established as being valid and effectual, unless it were proved that I was in the habit of talking of science, quoting Latin and Greek, or of going through a problem of Euclid, or solving some proposition in theology or morals, and this too in such a manner as that it would satisfy some sceptical gentlemen fifty years after, if it should so happen, for any reason whatever, that will should be disputed. Now, gentlemen, the first point in the address of my learned friend to which I shall advert is, as to what was stated to have been the conduct of Admiral Tatham. Says my friend, that was addressed to you merely as a matter of prejudice. Gentlemen, I utterly disclaim it. I say that it goes at once to the root of the whole matter at issue. It is immediately germane to this inquiry we are now about; it may be accounted for as being applicable to the case and may weigh with you when we come to decide. Says my friend, "Admiral Tatham was the heir-at-law of the deceased, but he was not so till 1819," a statement of which, however, there is no evidence. There is no evidence that his elder brother died then.

Mr. ARMSTRONG.—Yes, there is certainly evidence that he died in 1819.

ATTORNEY-GENERAL.—Well, be it so; yet certainly it is of no great importance. I think it was only stated, but never proved in the strict sense of the word; and I believe I may have stated it otherwise in my previous address to you. My friend contradicted it, but yet he never shewed any grounds for that contradiction; it does not, however, matter much. What I conceive is, that long before 1826 Admiral Tatham had plenty of time and opportunity to do what he ought to have done under the circumstances of this case. If he were aware (and of which I have no doubt he was long previously aware) that the family estate in Lancashire, or upon the borders of Yorkshire, a registered county, had been disposed of, he must have known who were the witnesses to the contract, and who were then the owners of the property; he had every means of getting at the facts. His brother had been living in the house, his own cousin was there, and there was the whole neighbourhood who might have presented to a jury their recollections of yesterday, instead of having witnesses now presenting to a jury their recollections of fifty years ago, and that too eight years after the death of Marsden! But, says my friend, he sent notice of his intention to dispute the will the moment he heard that Marsden was dead! Gentlemen, it is true that the moment he heard Mr. Marsden had ceased to breathe, he sent to Mr. Sharp a caveat against the will,

as my learned friend said he himself would have advised his client to do. I may observe as to this point that I should have said it was an indecent and indelicate thing to do upon such an occasion. I would ask you, gentlemen, did you ever know such a thing?

The complaint was not that it should be a matter put into discussion; but the complaint is, that there is such an eagerness displayed upon the subject immediately upon Marsden's death, although he had been from time to time for a series of years in the neighbourhood, had been even giving Marsden an invitation to come and dine with him at the judges' lodgings, and it appears that even Mrs. Tatham had been a visiter at the castle, and that the Admiral himself sends him a message within a fortnight of his death, and yet, at the moment when he finds he is dead, he gives the proper officer notice that he shall not prove the will. A caveat was accordingly lodged with Mr. Sharp, the registrar of the county. As to this sort of proceeding, I care not if all the barristers in the kingdom had advised him to do it, I should still say it was not only an indelicate but an improper act in point of form, as no one proves a will before the funeral of the deceased testator. Now, says my friend, I should not have advised him to delay, but, on the contrary, that Sharp should immediately read that caveat even when the paper was still wet with the ink that communicated the information to him that Marsden had just breathed his last! This, I say, was an outrage against all the best feelings of human nature, and against all common decency and delicacy. It only in my humble opinion shows this, that Admiral Tatham had been waiting for that express purpose in the neighbourhood for a long period, and then, no sooner does the moment of time come, than he proceeds to the office of the registrar to enter his caveat. Gentlemen, I have another remark to make upon that, why has he not disputed the will in a regular manner, as it might have been, in the ecclesiastical court? He has not done this, although in point of fact, a caveat applies to nothing but that course of proceeding. Sharp has nothing to do with the landed property, but he is merely the registrar of the ecclesiastical court, which court has nothing to do with anything but the personal property. If he had proceeded in the regular and usual course, then we should long before this have had the judgment of some ecclesiastical judge upon the subject, either destroying the will altogether or setting it up. Why that caveat, if he never meant to go on with it in the regular course? Gentlemen, when I say this, do not think I do so in disparagement of the trial by jury—but, I cannot help saying, (and I must say it in the presence of my lord, as a common law judge, and in your presence, gentlemen, summoned from your homes to stay ten days here engaged upon the inquiry) that I think, notwithstanding the patient investigation that has been bestowed on this cause, both in hearing counsel and the evidence which all these witnesses could





afford (to hear and to appreciate which not a few hours but days and months were necessary), still I must say, it would have been more satisfactory to the general justice of the country, than coming here with one hundred and twenty witnesses, fifty of whom are new witnesses, whom I have no power to cross-examine with effect. There have been altogether above one hundred and fifty witnesses to examine and cross-examine, besides a number of examinations and depositions that have been read. Those new witnesses that have been introduced, have occasioned many new circumstances to be stated, which have been denominated facts, I never heard of, each presenting an issue, while I have been left without any previous knowledge of what that issue is. I should ask you, gentlemen, at least of you who have had the most experience in such matters as jurors, what can any one say or do in such a case? Can you go through the whole evidence, so as at once to form a correct view of the bearing of each particular fact, when so represented? No, gentlemen, it cannot be done with perfect accuracy, neither by counsel, judge, or jury, in the space of even ten days. I who am so much accustomed to these sorts of inquiries, entertain a suspicion of that nature; and, even as to this case, with which I have been acquainted for upwards of four years and a half, should say that even a period of six or eight months cannot effect it with that minuteness and accuracy that the case requires. I may fall into error, and I am at a loss, even now, how to accomplish it. Time would not admit of it, and human strength would fail in endeavouring to contrast all the inconsistencies, and incongruities that occur in this case, at least to do so in the manner in which any common action, such as an action for goods sold and delivered—an action upon a contract—an action upon a bill of exchange—or one for a loss sustained upon an insurance, would require. If I were to bestow only as much time and attention upon this cause in proportion to any ordinary case, I should be addressing you even now for a fortnight to come. We have been sitting already for nine days, for eight hours a-day, hearing remarks of counsel, and the evidence of witnesses; and I must commence any additional observations I have to make, by asking, why did not Admiral Tatham prosecute his enquiry in the proper court? I say, the ecclesiastical court was the first court to try it; to construe, and to weigh those facts and circumstances stated; and, remember, gentlemen, it is a court peculiarly cognizant of wills, from its attention being invariably and particularly directed to subjects of this description. Gentlemen, I am far from undervaluing the trial by jury; I have said, more than once, that it is the most solid blessing, which the constitution of this country gives us; it is to the trial by jury, that we have reached to our present eminence as a nation. I am not unmindful of the great benefits derived from trial by jury; nor am I unmindful of the

blessings derived from the liberty of the press, which serves to fix and preserve it whole and entire; it is, as it were, the hand-maid of the other: but great as may be the benefit arising from trial by jury, still the question in this case is, was it a fit case to be so tried? There is one mode in which it may be said, that it is—remembering what has been stated as to the case of Lord Portsmouth. My friend talked of Lord Portsmouth, as if he were dead, and as if he had died after having made a will. Gentlemen, Lord Portsmouth is even now alive. It is several years ago, that he was brought before a jury. Mr. Nowell had then the personal means of observing him, and talking to him, as he was one of the jury upon that investigation; and I ask of my learned friend, why is that advantage denied to you, or at least, to another jury in the present instance? I cannot help presenting to you the sort of thing that ought to have been done by Admiral Tatham in this case (if he had a case at all), and in justice both to the world and to himself, that ought to have been done at an earlier period. Why did he not, at some period or another, do this, (for the sooner the better) the moment he knew that the family estate was parted with, by a gentleman whom nature had made with a mind infirm, or a connate imbecile; and whom accident, or according to the wise dispensations of providence, had destined to be so, even from childhood to old age? Why did he not then say, “how comes it that this paternal estate is now sold?” but no, gentlemen, this is not done; not only is that estate sold, but Hornby Castle is purchased. In the first place, Wennington estate is sold, and divided into personal property; so that the heir-at-law could have nothing to do with it. Why did he not, when he heard of that circumstance, send over to his brother, then resident in the family with Marsden, to inquire what was the meaning of this, and upon receiving that information as to what was going on, which he now gives us, why did he not take out a commission of lunacy against Marsden? Suppose, gentlemen, you had been assembled for the purpose of trying, in the lifetime of Marsden, whether he were competent to the management of his affairs—I may imagine the proceedings to take place, with the usual solemnity, and you are called upon to hear and decide upon such a question, as that my learned friend, or whoever might represent the heir-at-law in support of his claim, would then have had to begin. Suppose you had heard the doubts of the judges or the people about him; suppose you had heard all the evidence you have heard to-day, the tales of servants, of workmen, the fabrications and false stories circulated in the neighbourhood, and, added to that, you had what you might conceive to be the true, honest, genuine opinion of persons who with very opposite opinions and feelings, and who, (with a very slight knowledge of Marsden himself, had had but very imperfect means of knowing anything about him) would have said, “honestly speaking we think he was







not competent" ; suppose you had had all the persons, both those that are now living, and those that are now dead, before you, such as Fitzgerald, Barrow, Baldwin, Green, Dowbiggin, Bleasdale, and Mr. Bickersteth, (the father of the present eminent king's counsel—he himself being an eminent surgeon, at Kirkby Lonsdale) and you are not likely to have had a better nor more efficient array of parties saying "we were parties to the arrangement of these deeds;" suppose they had added, "we do not mean to say that Marsden was a bright man—but as to saying he was such a fool as not to know his friends, and possessed of ability enough to bequeath his property to them—that is what we deny." "We say that he was not a man possessed of much understanding, nor so much as he might have been in regard to literature, for one of his station in society; but he was not deficient in the common charities of life. We say that he did understand that, which we should have been base indeed if we had been parties in fraudulently concocting, if he were inadequate to execute for want of understanding it." Suppose, further, that you had all the correspondence laid before you, and that Alexander Marsden himself appeared in your presence saying, "I saw him at his own house when I was there visiting with my daughter; I conversed with him, and I am convinced that he was no connate idiot, for he displayed nothing of the kind," (which Dr. Cookson said, you might discover in ten minutes) "I saw the man who had been writing to me as to his genealogy and so on;" suppose you had seen Mr. Dawson, who is now dead, and that he had said, "Why, sir, I had been with Marsden frequently, I had opened a correspondence with him upon business, and sent my sons to visit him, and I myself have staid at his house for various periods during a series of years;" suppose we could call Ellershaw, or others who wrote the letters to him, and received letters from him—would it not have been quite absurd to have said "but notwithstanding all we have heard to the contrary, we think he was a mere fool"? Suppose, again, we had shown that he was visited by, and had at his table the gentry resident in the neighbourhood—that Lord Ducie frequently sent his compliments to him, and consequently must have had some personal knowledge of him, what then would you have said? You would at least have said, "this is very odd—but where is Mr. Marsden himself?" If you had asked the presiding officer on such an inquiry to produce him before you, you would have said—"let us see him both without the presence of Mr. Wright, and with the presence of Mr. Wright;" suppose I had then produced Marsden before you, and, as I did think it was important, Mr. Lonsdale should be called, I had said, "I thought it my duty to call you, to ask you as to the picture of Marsden, whether you think its appearance bespeaks him to have been such an idiot as you have told us he was?" That gentleman would have answered in the negative, as the picture which he himself has painted of him displays.

Then, gentlemen, if Marsden himself could have been questioned by you, you would naturally have asked him in the first place, this question, "Were you ever at school?" Suppose he had told you the story of his education having been neglected, as we have heard from the witnesses—suppose he had answered, "Yes, it is true I went to school when I was about twelve, thirteen, or fourteen years of age." Now, I give you the result of the evidence, just as I find it; I travel not beyond what you have had proved to you upon oath; he would have said further, in answer to your question, "I went to school, and continued there till I was fourteen years of age; I was three years there." "What did they teach you?"—"They, in fact, taught me nothing." "What did you do?"—"I sat by myself." "Were you ever heard a lesson?"—"No, never." "Then, what were you there for at all in those early years?"—"Why, I believe it was just to keep me out of harm's way." "Well but, Mr. Marsden, did they ever attempt to teach you arithmetic?"—"Yes, for one or two quarters, or for three or six months, I went to the arithmetic-school." "Well, what was the use of it; could you write?"—"No, I could not; my book of writing was nothing but a series of scratches and blots." "Could you read?"—"No, I could not." "Where was the use, then, of going to an arithmetic-school; why did they send you there?"—"Only to keep me out of harm's way." Such, gentlemen, is the sort of evidence that has been given concerning him by the witness Casson, the master of the school (no, I find he was Sisson's pupil). Then he would be asked, "what did you do there?"—"There was a boy there that used to ask me to cast up figures which he set to me, and that was carried up to the master, and when I went up to him he wrote down the amount and called over the sums." "And did you go through that farce for three or six months?"—"Yes, I did." "And did you learn anything?"—"I do not know that I could in that way." "But did you ever learn anything at any other school, and where?"—"Oh, yes; within two years of that time I was at Kirkby Lonsdale school, where I learned reading, writing, and arithmetic; I wrote a remarkably good hand. I learnt English there, and an attempt was made to ask my parent to permit me to go into the Latin, and to begin with *Erasmus*, but it was treated with neglect." Now, gentlemen, if Mr. Marsden had told you all this, what would have been your impression! Tell me of Mary Denny saying that Marsden was a fool? When I find that man so neglected—when I find that he was in his early life put to a school, merely "to put him out of harm's way" for three or four years, when I find he was taught nothing, and, consequently, learned nothing; but when put to another school two years afterwards, then he writes an excellent hand, and then the master was for learning him Latin; what are we to think of her evidence after that? Gentlemen, perhaps you do not know, from reputation, anything of Kirkby Lonsdale school; but I understand it was,





and is still, an excellent institution for education—I say that that fact of the master wishing to teach him Latin, is a fact worth all the evidence of all the persons who dined with Marsden, and did not enter into conversation with him, but merely could state that they thought him polite, affable, and agreeable. He might have been further asked in your presence, “Have you any friends or relations?” And suppose he would answer, “Yes, I have—I have had many, and some still survive; Mr. Birkbeck is a friend whom I respect, and sincerely respect; I am received at his table, and he is a gentleman of the highest character.” “Are there any other persons who know you?”—“Yes, there are. I have had Colonel Lushington, and Mr. William Lushington, at my house for weeks and months together,” “For hunting and shooting?” “Yes, for hunting and shooting, but, I am not very partial to either now, from an accident that prevents me; but I am fond of fishing, and so are they.” “Have you any other friends you can name who were in the habit of visiting you?”—“Yes, I have had Mr. Baron Bolland, and many other friends of the neighbourhood all around, who are in the habit of dining with me.” “What has been the state of your health of late years?”—“I had a stroke of apoplexy at one time lately, from which I gradually recovered, and now I feel old age is coming upon me.” “How did your relations treat you, Mr. Marsden, do you recollect?” Suppose then he said—“Yes, my recollection is very good, I do remember a brother of Admiral Tatham, who went abroad, and he wrote me a letter when in Alexandria, in Virginia”—what would you have thought of all this?

Now, gentlemen, to that letter I beg to refer you; for, although I read it before, I must read that letter to you again, because upon this letter my learned friend has not animadverted, nor read one syllable of it; but I will allude to it again, as showing that it bears the construction I put upon it, and the weight I attach to it. It was a letter from Charles Tatham, the younger brother of the Admiral; upon this letter my friend has said not a word, and why, gentlemen? I think most honestly and firmly that one advantage I had in the outset of the cause, was the reading of this genuine epistle, written by a boy who had crossed the Atlantic, and had written it to his cousin Marsden. The writer of this letter you will not forget was the brother of the plaintiff himself. After you hear the letter again read, I may ask you where goes the statement that has been made by some one or other of my friend's witnesses, of “there goes silly Marsden?”—What becomes of the evidence of the medical gentleman, Dr. Campbell, which was read to you, as having been given on a former occasion, as to Marsden being a connate imbecile, or a connate idiot?—Where are those expressions now banished to, or does my friend, Sir James Scarlett, mean to say, that Wright ever played his part so well in the plot alleged,

as at that early period of Marsden's life, he sent this young man, Charles Tatham, three thousand miles across the Atlantic, in order to be benefited in this conspiracy, by the letters he might write his cousin!—How am I to put such a monstrous proposition as that!—How am I to deal with that part of the case, which my friend, who, for want of an argument, says, “this is a part of the scheme”?—This letter, I believe, was not produced at York; it was read last April, upon occasion of the trial here, and again upon this occasion; and I say it is worth all the Lingards, all the Nowells, and all the gentlemen put together who say “this man was a fool.” No, gentlemen, this is the language of nature; both the head and the heart of the writer go with this; for, on such a point as this, the one is not of use without the other. If this be a genuine letter, then, I submit there is an end of the case—and I put it to you and my lord, that unless you think that young man was sent across the ocean to favour the alleged conspiracy, this letter, which bears upon it the mark of a ship-letter, and speaks volumes in behalf of my client. It has upon the back of it, “London—ship-letter.” It is dated “Alexandria” which is in a far distant clime, and not only the time, but the remoteness of the place, and every thing that belongs to it, stamp upon it the character of being perfectly genuine; and yet, upon this, my friend said not one word. No—gentlemen, he knew too well he could not undo the effect of it. He had but one of two alternatives, either to say nothing about it, or to say that Charles Tatham went out with sealed instructions, as a commodore does, to take his station on a distant position,—to wait for further orders, that he was to open his instructions in a distant latitude, where he was to write some letters, such as this, from the other side of the Atlantic; the defendant must have said to him, your instructions are these, “remember and write this letter, the purport of which is dictated to you here inclosed, for if you do write such a letter, it will tell so well in the year 1834!”—That is to say, “fifty years after the date of it, a case may occur, and may come to be tried, and such a letter may be beneficial”—but, gentlemen, if your hearts do not respond to every word of this letter, then, I would say, let there be an end of the cause. This, gentlemen, is the first letter, and the earliest of the facts I have had to place before you, and I place it as an answer to all the Mary Dennys and the filth, the trash, and the stuff that have been detailed to you, as being descriptive of Marsden's earlier years; and present it also to the haughty (I won't say the insolent) the proud, supercilious judgment of the learned and the wise. Mr. Nowell may look down upon Mr. Marsden, and pronounce the appellation of “fool;” Dr. Lingard, whose politics he disliked, whose religion he detested, may come here and say, “I, too, had formed my opinion that he was a fool, or a person of the weakest description







of men, and yet I condescended to dine at his residence, at his Castle, every year, for four or five years after having formed that opinion;" God knows why—but from the judgment of those gentlemen, or any other witness who has spoken of him in a similar style, I appeal to this letter. If it be a forgery, gentlemen, then deal with it as such; if it be true, then, I say, it is a verdict for the defendant.

Now, gentlemen, I will read the letter I have alluded to; it is from Charles Tatham, to his cousin, John Marsden, dated Alexandria, 12th October, 1784. It says,—“My dear cousin, you should have been the first person in the world I would have wrote too, had not my time been employed by affairs that called for my more immediate attention; in the first place I am called upon by business, it being the first consideration, must by no means be neglected. As for my brother, his goodness is such, that I know he will excuse me till I am more disengaged; was I to write to him in my present embarrassed situation, I perhaps might only do justice to my own feelings, and he might construe it deceit, so different an opinion have I of him to mankind in general, who above all things are fond of flattery. I shall now proceed to give you a small idea of what has passed since my departure from Whitehaven.”

Gentlemen, here was a letter from a cousin of Marsden's, the brother of Admiral Tatham, and, of course, from one who was intimately acquainted with John Marsden, the person whose will is in question; either it is to be said it is most iniquitously corrupt, or it is as utterly absurd a letter as ever was produced, or he would say it appears to have been written under the superintendence of Wright, else it is the genuine effusion of natural, congenial, and simple affection. Even if John Marsden had been the character to be slandered as he was, I say, if his cousin knew him, and wrote this letter in honest simplicity of heart, the man to whom it was addressed must have been capable of appreciating it, and, of course, of making a will. Then he goes on to say, “As I suppose Harry long ere now has told you the rest.” Gentlemen, it could not be the Admiral, but Harry, he alluded to. He proceeds to say, “We sailed the 14th July, and had good weather the chief of the way, but as you know nothing of seafaring matters, it is not worth while to dwell upon the subject. We reached the Cape of Virginia the 13th September, but did not get here till the beginning of the present month, so we were about twenty days in coming three hundred and fifty miles. When I arrived, I was no little concerned to find the town in a most shocking condition, the people dying from five to ten per day, and scarcely a single house in town clear of disease, which proves to be the putrid fever. I am going to Philadelphia in a few days, if God spares my life, and permits me my health; and there I intend to stay till affairs here bear a more friendly aspect; and so the next

time you hear from me will be, I expect, from that place, though you will direct to me here as usual. God bless you, my dear cousin, and may you still be blessed with health, which is one of the greatest blessings we require here, is the sincere wish of, dear cousin, your affectionate kinsman, and very humble servant, Charles Tatham. P. S. Pray give my kind love to my aunt, my brother, and my cousin Betty, also my compliments to all the rest of the family, and all others my former acquaintances, &c. Alexandria, 12th October, 1784. Addressed to John Marsden, Esquire, Wennington Hall, Lancaster."

Oh! gentlemen, if you have a heart to feel the genuine character that belongs to this letter, written by one friend to another, at such an immense distance, I think I need scarcely do more than say, take that letter in your hands, for that alone will secure a verdict for the defendant; but, gentlemen, that is not all: suppose you had said to Marsden, "did you ever write to your cousin Charles Tatham when in America," his answer would have been, "Yes, I did write a letter, and here is a copy of it." I should say, take this also in your hand, and see if there be any art in the working of this draft of a letter. Marsden writes an answer to his cousin Charles Tatham, "Dear cousin,—I received your letter some time ago, wherein you mentioned that you had sent me a map of the United States of America, to the care of Mr. George Welsh, merchant, in Liverpool. I deferred writing till such time as I had made enquiry after it, but did not get the map till the 7th instant." Is that a fiction? Who wrote this? Did Fitzgerald and Wright do this? These letters were not produced at York; they were passed by among a quantity of old correspondence, found in a cupboard. I say, every thing in these letters appears selected, and they are more important documents than any of the others, as there cannot be any doubt of their being perfectly genuine. He next says, "You mentioned in your letter that you had sent me a small quantity of dried fruit. I received nothing but the map, for which I am obliged to you. My aunt has had very poor health since you left England; she has scarcely ever been well; I am in hopes she is getting better again. I think that a change of air and a journey would be of service to her. We have lately had an account of poor Mrs. Smith's death: she died at St. Albans, the 7th instant. My aunt has had a letter from your brother Harry—he is very well. It is reported that your acquaintance, Mr. John Bradshaw, is going to be married to a Miss Fell, of Lancaster. Whether there is any truth in it or not I cannot tell. I suppose you have received my last letter, wherein you will see an account of your nurse's death. I have nothing further to add, but compliments from my aunt and your cousin Betty. I am, dear cousin, your affectionate kinsman, J. Marsden. Wennington Hall, June 1, 1787. C. Tatham, Esq."

I ask you, if this letter and this answer had been put into Mars-





den's hand, and Marsden had added an observation in answer to such a question as this: first, if you had asked him, "It is supposed that you behaved not so affectionately as you ought to have done to your mother?" "So far from it, I do assure you I only felt the neglect with which I was treated." "How is it, that although you went to school, as you have stated, you still retain some of the education of the nursery—was your education neglected or not?" And if he had answered, "No, certainly, not altogether; it was not neglected latterly; for when at Kirkby Lonsdale School, I made great progress in writing; the master began even to teach me Latin." Then, I should say, all that has been stated to the contrary has been clearly owing either to deficiency of recollection in the witnesses, to false representations, or to wilful and abominable perjury. Persons looking back, at the distance of fifty years, to circumstances to which they have no means of recalling their recollection, may easily mistake those things for facts, which they have heard as mere stories in the neighbourhood. And, under these circumstances, I should absolve even Mary Denny from the charge of falsehood and perjury, if she had only added, "I may be mistaken, as I may have taken those things for being facts which I only heard as rumours." It is clear, gentlemen, that what was stated by these witnesses, under all the circumstances of the case, cannot be true.

Gentlemen, there was another topic which my learned friend introduced in commenting upon my address to you, so as to effect these deeds, as if that stopped the inquiry by the parties; my friend says that the leases would be all perfectly good, even although the estate could be reclaimed; I say they would not be good, as no leases, and no contract can be good, that would require to be enforced, under such circumstances; because, if Marsden were supposed to have been *incompetent* to have had any transactions in business, in regard to disposing of one estate, and purchasing another, those leases and contracts must all go for nothing. "But," says my friend, "Admiral Tatham cannot have both estates, he cannot have Wennington Hall and Hornby Castle estate;" I never said he could. He would have cut an odd figure, if, by accident, he had laid claim to the Wennington Hall estate! How could he have got it? Was it because Marsden was to be proved a connate imbecile, at the period of the sale? If so, he could not have bought the Hornby Castle estate; but Oh! says my friend, "he could buy, but he could not sell an estate;" my friend may be right, or he may be wrong; but still I say, nothing alters my view of the case, as to those who were parties to all those deeds for a good consideration. Wherever the consideration was adequate, and the transaction was without fraud, it would be perfectly unimpeachable. Is it to be said, that all the parties to these instruments are to be told that the instruments are to be looked upon as nought, unless it be shown that there was a want of good faith, merely because

Admiral Tatham may choose to impeach them. It was not for the purpose of exciting prejudice, even if it were to be said, "what right had you to permit Marsden, for fifty years, to be dealing with all mankind as a sane person; to sell, to mortgage, to redeem land, to borrow and pay money; and yet say, that he could do every thing in life but make a will?" It is so monstrous a proposition, that it has but to be stated, in order to carry with it its own refutation. There is also another matter, which I am not disposed to pass over. I must notice what my friend has said, as to my observations in regard to making the former verdict, obtained at York, evidence upon this occasion.

GURNEY, B.—I think I must tell the jury, that although I deemed it right to take that verdict in evidence, (having received no intimation from the exchequer chamber, that it was not to be so) yet I am bound to tell the jury, not to give it any weight whatever. If that were an erroneous admission of evidence, I think it is best to mention it now, in order that you may tender a bill of exceptions upon that part of the subject, if you think proper. I shall therefore take a note of the objection.

The ATTORNEY-GENERAL.—Having received that intimation from his lordship, that he means so to do, I shall bow to his lordship's decision, and enter into no further argument on the subject, beyond observing this, that if, by law, as between these parties, I could plead that verdict, it would have been an absolute estoppel in such a cause. In all cases, where previously the same thing has been discussed, between the same parties, the verdict has been considered as evidence, so far as it may be entitled to weight; and particularly in a case like the present, the labours of which exceed anything we ever heard of before, every thing which can have the effect of enabling you, gentlemen, to draw your conclusion, in such a laborious investigation, ought to be received in evidence, you giving it whatever weight you think it entitled to. Here we have had an account of every trifling circumstance, and every failing in this man's life, for no less than fifty years back; and therefore, I say, that every piece of writing, and every body who chooses to come, and give some account of such transactions as he was engaged in, should, at the end of fifty years, be received, on one side as well as the other. Gentlemen—at least I should have thought it would have been admitted that the former verdict was worth this; that if you had a doubt upon the subject, the former verdict ought to turn the scale, in so far as that doubt is concerned. Not that it is *per se* to determine the question; but if no evidence were given to rebut it, on the other side, it would be evidence. It has been decided, over and over again, that if, in any question between the same parties, a matter has been raised and tried before, and if there be no evidence upon either side sufficient to remove the doubt that exists, then I should say, it has been held to be conclusive. Is it no evidence,







then, if there be conflicting evidence? Certainly, it is in this case, as there has been much confliction of evidence. I cannot challenge the observation of his lordship, as to reserving a right to tender a bill of exceptions; but I hope, gentlemen, you will at least lay this down; that in case any doubt exist in your minds, you will give us the benefit of the former decision. Is it evidence of anything? Certainly it is evidence, that the facts of the case were equally, fully, fairly, and impartially considered, three or four years ago, and decided in one way, viz: in favour of my client, and that too by a different jury, but, "no," says my friend, "I was dissatisfied with that verdict." Did you ever know him satisfied with a verdict that was against him? I, for one, never did; but "oh," says my friend, "I saw from the early part of the trial of that cause, that as far as Mr. Justice Park was concerned, Admiral Tatham had no chance." I hope my learned friend, Sir James Scarlett, who we all know is no violent reformer, does not think it necessary, in consequence of his idea of some general system of reform, to introduce a practice of libelling a learned judge for the purposes of this cause, and to state that reform, as an excuse for raising again this long, painful, and scarcely satisfactory investigation of the matter at issue! Is my friend, in consequence of some notion he may have of a general reform in every department, to be allowed to say, that from an early period of the trial of that issue, Mr. Justice Park had made up his mind upon the subject, and that he, Sir James, did not like his lordship's mode of dealing with the question then pending between those same parties? If my friend had any such statement, or complaint to make, he should have made it in its proper quarter. It was urged in point of fact in that very quarter, but it was urged in vain; and I do hope we are not yet gone so far, in point of alterations and reform in the administration of justice, as that any advocate, however high he may be, even although he stand, as Sir James Scarlett certainly does, at the head of his profession, (and older, in point of standing, than many of the learned judges themselves) should be allowed to libel a learned judge, by accusing him of *partiality*! He is not here to say that any judge so far forgot his duty in the administration of the law, as to show partiality, nor even that that was his impression. Nor is he to do so merely for the purpose of giving Admiral Tatham another opportunity of trying this question again at a future day. If he were to do so, and that were to become a practice, I ask you, gentlemen, where would it end? As well might it be said, Admiral Tatham had a verdict before, and therefore (though I do not suppose he will) he is to have another to-day, and that we are at some future period to devote other ten or fifteen days to hear one hundred and fifty new witnesses! Where is this to end? I submit, gentlemen, that at least I have a right to appeal to the former verdict at York, which is the only one that was given upon its merits, to this extent,

that if any doubts exist in the case, from the mass of contradictory evidence laid before you, that former verdict should have some weight upon your minds, in order to put an end to litigation, to quiet men's minds, and to prevent a succession of trials of such a remarkable length that none such were ever known to our ancestors, and I trust will never occur again for centuries to come. Surely, under such circumstances, a trial which lasted six days at York, ought not to be treated as a matter of no importance, or as a totally void and absurd proceeding? In any other matter, except in the case of an ejectment, I admit it could not be argued that the verdict, upon a former trial, could be received in evidence, and far less could it be deemed conclusive; but it is for your lordship to present your view of the effects of it, and I do hope, at least, that you, gentlemen of the jury, will adopt what is suggested, and if you do, you will give to the former verdict that weight which you think it deserves.

I beg, now, gentlemen, to advert to another matter. I ask you what do you think of Mr. Reginald Remington who has been called as a witness for my friend's client? He came to say that he thinks Marsden was not competent, and he gives you three dates, I believe, in 1790, 1791, and 1792, at which he states certain facts occurring, upon which he has formed his opinion; but after fencing with me for some time in cross-examination, he at length acknowledged he was on very bad terms with Wright; there is no doubt, gentlemen, he was so; that is a fact that may be relied on, and may account for all he has stated! What do you say also of Rawlinson, who acknowledged he never had had a conversation with Marsden in his life!—Never!—If so, is he a witness fit to give an opinion as to Marsden's competency, when it is evident he merely spoke from report? What do you say of Gibson, the banker of Kirkby Lonsdale, who, 48 years ago, sauntered away a few hours with Marsden, childishly on both sides, no doubt; and although he never saw him afterwards, yet he, too, ventured to give an opinion, while in truth he had no fact to state at all; or if he did state any, it was merely this, that Wright, who is admitted to be an abrupt and rude man, and upon his observing Marsden amusing himself with his fiddle, Wright said that he had better play at a distance—and upon this outgoes Gibson immediately; after Marsden and he had sauntered together, he having formerly met Marsden somewhere at dinner at Kirkby Lonsdale—in the course of their sauntering, he begins to talk to him childishly; I dare say it was childish enough on both sides. Then there is Matthew Atkinson, who, although he visited Hornby every year since 1818, and knew Marsden, was never in Hornby Castle for an hour, and only once, during the six months, before Marsden went down into the grave. All that he mentioned is, that he thinks he heard him say something about improvements, and he made some inquiries after Mrs. Atkinson





to whom he sent his compliments. Upon such circumstances as these has he formed an opinion that Marsden was incapable of writing such and such a letter! Then, gentlemen, what says Mr. Nowell as to this fact? He is a gentleman of fortune and consideration; his account of the matter appears to be this:—"I reside at Underley Park, near Kirkby Lonsdale, and once represented the county of Westmoreland in Parliament, and am now a magistrate of the county." His acquaintance with Mr. Marsden commenced in 1807 or 1808, and ended in 1815 or 1816. He once dined with him at Hornby Castle, and saw him on eight or ten other occasions. Having heard so much of Mr. Marsden from public report, he had a desire to ascertain the qualification of his mind. Then he says:—"On my first visit, Mr. Wright was present, and I was unable to form any opinion of Mr. Marsden. At my second visit, I found him alone, and endeavoured to draw him into conversation. His manners were very gentlemanly, and he would talk about the weather, probably. I walked him out, and asked him questions about his property and premises, and so on, but I could get no rational answer. His reply was over and over again—'I don't know,'—'Mr. Wright knows.' He was totally incompetent to manage his affairs. He had no mind whatever; he was a fool—worse than Lord Portsmouth." He might as well have used the phrase that is common in Yorkshire, that he "trotted him out"—that would have been just as well adapted as to say "I walked him out." Thus, gentlemen, the truth is out; he says he tried to converse with him on various subjects, but that he found "he had no mind whatever—he was a fool." I have heard it suggested that there is hardly any one so dull of apprehension, as not instantly to perceive the drift and object of that sort of conduct. In his endeavours to draw him into conversation upon his affairs, Marsden soon perceived what he was at, and then, forsooth, because he would not give him an answer, Mr. Nowell immediately jumps to the conclusion, that Marsden was a fool. Not such a fool, gentlemen, as Mr. Nowell inconsiderately took him to be. I do not know that Mr. Nowell himself is one of the brightest of men, from this specimen of his acting in the world; but I defy any one to produce an instance of a gentleman going to the house of another, for the avowed purpose of attempting "to walk him out"—to discern his intellect—who would not immediately have perceived (if he had the slightest grain of sense to enable him to perceive) that the person so questioned, declined answering, because he had discernment enough to discover from his questions, the object he had in view. So, gentlemen, was it in this case—Marsden perceiving Nowell's object, immediately waives his question by saying—"Wright knows—I don't know." Such was the answer that Marsden gave to Nowell; and, gentlemen, I do not know what you may think of that mode of dragging out a gentleman's understanding, but I know this, that if Marsden

had even the fiftieth part of the ordinary understanding of mankind, or that what Baron Bolland, Mr. Birkbeck, and other persons describe, I believe he must have seen, and resented such conduct, as he did upon this occasion. His mode of resenting it, was by returning that sort of answer, which, according to the wisdom of Mr. Nowell, was construed into that of being a fool. Was he so? If he were, then I ask you, Mr. Nowell, how came you to visit at his house within a short time after that? How came you to be calling there, and to be found in the society of a fool and an idiot? Does he mean to say he went there to insult him? Did he go there to triumph over him? Was it for that, that Nowell proposed his various inquiries, to induce Marsden to detail to him the internal management of the various branches of his establishment, when the latter gentleman informed him that if he wished to know such particulars he must see Wright, to whom he had delegated all knowledge and activity upon the subject? It remained for Mr. Nowell to ascribe a reason for such conduct, and therefore he says he went there expressly to see if he were a fool or not! And why? was it to ascertain whether you should continue to visit him or to dine with him or not? If you did find him to be a downright fool and an idiot, why did you afterwards go to dine with him? Why was Mr. Nowell thus occupying himself in thus trotting out a gentleman in his neighbourhood, when he might have met him by chance and got an invitation to visit him? If he were intending to act upon it, then, gentlemen, let us take into view his actions. He goes to a man whom he thinks in his own mind to be a fool, but not being quite certain he talks to him, and because he got no information upon any one subject he happened to touch upon, he immediately concludes that his previous suppositions were right, and that the man was a downright fool and an idiot; and yet the very next step he takes is to visit him and to dine with him! The only interruption to his having visited him as he had done before, was, because he went abroad. Under all these circumstances, I I ask you, gentlemen, is Mr. Alexander Nowell's opinion of any worth or avail in this cause? Certainly not; I have the fact, the single fact, that he dined with him afterwards; and I say that facts are more stubborn things than opinions.

Now, gentlemen, in the next place I shall ask you what do you think of Dr. Lingard's statement? Is that matter of fact, or is it matter of opinion? Dr. Lingard gives pretty much the same opinion of Marsden as that which was given by Mr. Alexander Nowell, and in the same manner we have, too, the fact—the stubborn fact—that Dr. Lingard continued to dine with him for several years together, after having formed such an unfavourable opinion of his intellect; nay more, entertained Marsden at his own table several times.

GURNEY, B.—Only once, I believe.







ATTORNEY-GENERAL, resuming.—Gentlemen, is not this a fact much better than Dr. Lingard's opinion? Does Dr. Lingard mean to say, that notwithstanding his opinion of Marsden, he found this a very nice convenient place, where very good dinners were given? Absurd and impossible! 'This being thirty years ago, Dr. Lingard is giving a more unfavourable opinion than he would have done at a later period, had he been able to continue those visits. He cannot say he went there to see Wright. The fact is he went there to see Marsden, and under these circumstances, I leave you, gentlemen, to say how far his opinion ought to go. But this is not the whole; we have a variety of other persons, whose evidence is placed in the very same point of view, and who talk of Marsden in the same manner. You may remember Mr. Edmondson, whose evidence I will repeat, word for word, as I have no doubt they are upon his lordship's notes. He says—"I live at Grassyard Hall, and have extensive estates in the neighbourhood adjoining Hornby Castle. I went there in 1811. I occasionally dined with Mr. Marsden, and Mr. Marsden with me. I never saw Mr. Marsden on business, but always Mr. Wright. I do not think he was capable in the least of attending to any business, or of writing a rational letter, or of giving rational instructions for a will. Mr. Wright appeared to be master in the Castle, and behaved to him very well always when I was there." Now is that matter of fact, or is it matter of opinion? I leave it to you to determine. Then Mr. Hamilton Parr is another, who gave us not matter of fact, but mere matter of opinion; I, however, got one important fact from him. I asked him, "Did you ever see Marsden read a newspaper?" "I never heard him read, but I have seen him with a newspaper in his hand." "Did he never talk of what he had read?" "Yes, he did." "Did you state at York that he was fond of reading newspapers?" "Oh yes, I did; I forgot that." The fact is, we have here his opinion against the fact. Then, we have another witness, the Rev. Robert Gibson, and I wish to call your attention to this evidence, to satisfy you as to the mode in which this case has been got up, and the sort of basis on which it stands; and I say boldly, that wherever I have the means of checking, contrasting, or sifting to the bottom, I will undertake to show that Marsden was competent, and that Mr. Wright was honest. This is his evidence—he says, "I am the son of the late Charles Gibson, of Quernmore, and I am vicar of Bolton-by-the-Sands. I went to Mr. Procter's school, in Hornby, in 1805 or 1806, and I left it in the year 1809; I was then fourteen years old. I often saw Marsden, and was asked to the castle by Wright, never by Marsden. Wright appeared master of Hornby Castle; Marsden appeared quite the reverse. I have seen Marsden at my father's house in 1817. I had but little conversation with him; my father spoke to him respecting music, and Marsden said that Correlli was a very fine composer."

I should have liked to hear what Mr. Nowell would have said upon that point. We find that Marsden was more silent to him, because he discovered he was going to ask him questions. He was then asked if Marsden played upon the violin, and he said, "he had heard Marsden play one tune in particular, and that was Daintie Davie, but he played other pieces of music, and he, himself, played upon the flute. He thought that Marsden played but badly upon the violin." Gentlemen, I hope a man may make a will, and even go to Heaven, without being able, either to play upon the flute, or upon the violin, or any instrument whatever.

Then you have the evidence of Colonel Lushington and his brother, both of whom say that Marsden played well upon the violin, and even Correlli's duets; this is in opposition to Gibson. If my friend's case is to be believed, it should be "whole and entire, and true in all its parts, large and liberal as the air," but, if it be founded upon perjury, it is done, and at an end. The question here is, did Marsden ever try to play the easier parts of Correlli? I firmly believe, from what Colonel Lushington says, that he did actually play Correlli's duets; and we find Colonel Lushington and his brother, who staid months and weeks together, not only heard him play them, but played them with him. Then, we find when Marsden is dining at Mr. Gibson's father's, he takes a glass of port wine, and then a glass of gooseberry wine, and when it was observed, he said, "it made no difference." Is that a circumstance so worthy of notice, as to form an opinion of a man's judgment and capability? Certainly not. I think it was said, too, he was fond of sweet cake, and if so, why might he not be fond of sweet wine after it? On another occasion, it is said, a glass was broken, and he goes away. You will observe Mr. Wright was not there at that time, nor was Mr. Wright present upon many important occasions, upon all of which the individuals are pledged in point of character, consistency, and honour, to confirm the statement I now make. What reliance can you place on Gibson's opinion? His facts are inconsistent with it.

I will now take the case of Mary Shaw; she, too, gives an opinion, without facts to support it. She came here to speak most positively to some things that happened when she was only six years old. She was ready even to swear to what happened, when she was only six years of age, till she was checked, and to my astonishment she abated two years, and said she could remember at four years. Is the opinion of Mary Shaw to outweigh any facts she could prove! Then, we have the testimony of a witness, of the name of John Metcalfe, who speaks of his being set to play at loo in the evening, whilst others played at whist. I do not mean to say, gentlemen, that Marsden could play well at whist, but it does not matter to me, whether he could play well at whist or not. We find that to all people who are fond of their rubber it affords them no amusement at all to play with a very indiffer-





ent player; that is a maxim amongst whist players, in which I dare say you will go along with me. If Ellershaw were at all fond of his rubber, he, like others, would not be desirous of having an indifferent player, like Marsden, as a partner, as it would afford him no amusement at all. I have played at whist a little myself, but I have sometimes been in companies, where I found I was rather desired not to play, and upon these occasions I have avoided cutting in for the purpose of avoiding to play. Now, we have an instance of another fact, where there was a deaf man who pointed a stick at Marsden, as if he were going to shoot him, and upon that, it is said, he walked away; what inference are you to draw from that I really do not know. It was perfectly natural in Marsden, who is near-sighted, to suppose it was a gun, and it showed his good sense, to get out of the way of danger. Are you to suppose that Marsden, who was in early life a lover of sport, possessed such heartlessness as to say, "go and discharge that man!" No—he only said to himself, I shall not remain here to be his butt. Suppose you, gentlemen, explain that fact to yourselves—what does it amount to? Absolutely nothing.

Then, there is Mr. Armitstead, who stated that Marsden was in the habit of galloping up a hill, but went gently down one; did this display any want of intelligence? No, gentlemen—none but a madman would think of galloping down hill. The duty of examining this man was confined to my friend Mr. Starkie, as to this point, and he put the question, "did you ever gallop down a hill?" such a question as that might be expected to be put by my learned friend Mr. Starkie, perhaps from his skill in horsemanship, but the fact is, he was never more mistaken in his life; it is well known, however, that my learned friend was never across or astride a horse in his life.

MR. STARKIE.—I beg my friend's pardon—he is mistaken; I should be happy to ride a race with my friend any day he pleases. I rather think I have rode more than you, Mr. Pollock.

ATTORNEY-GENERAL.—I am glad to hear it—but this is not a case of comparison as to our skill in horsemanship. Are you to suppose that because Marsden galloped up a hill faster than when upon a plain road, therefore you are to judge from that, as to his being incompetent? No, I hope not. The next thing we are told is, that upon one occasion, a poor silly idiot, called Tommy Thomson, threw a pie-dish at a dog, and then ran off, and the dog, instead of attacking the pie, ran after Tommy Thomson, and because Marsden ran away, are you to lay down that as another instance of imbecility? Such, however, are the sort of facts that my learned friend has laid before you. What do you think of that fact that Mary Hodson was called to prove, namely, that she once saw Marsden throw his hat at a screaming peacock? When is there to be an end of this trash? Yet these are the facts that my friend has thought proper to bring forward as compared with

the opinions he brought forward? There is not a single fact stated by these, nor by most of his other witnesses, that you will consider worthy of attention, nor are they to be contrasted with the evidence on the other side.

Then, says my friend, the correspondence we have brought forward as evidence before you, as to Marsden's competency, is all a fabrication or a forgery, or in substance his objection to it is this:—There may be Marsden's name there, but still there is not his mind or his heart. Now, let me try that: I cannot help begging leave to call your attention to the position in which the cause now is. In the year 1826 Marsden died—a bill was filed immediately, and there was an answer put in. The schedule to that answer did contain two letters that were never read, neither here nor in the other court, nor at York in the year 1830. There is nothing in the schedule but merely the letters stated, as it is supposed the contents of them are perfectly well known—where did my learned friend get an account of that letter, and yet some how or other it was supposed that letter had been lost? They have, besides that, got some other letters of old Mr. Alexander Marsden's, which I shall presently notice. But have they got any letter of Dawson's? No; but they come and say here that some of these letters are copies, and have been altered in another hand. Have they called a gallant officer, or a reverend divine, who were resident in the family, to say that Marsden's house was the jail of a lunatic, when the sons were there, and the father staying in the house, received as relations, and afterwards writing to Marsden when they were absent? No; but, says my friend, "all this correspondence is fictitious," and yet he points out no mark upon any of the other one hundred and sixty and odd letters produced, every one of which, I think, is given in the schedule to the answer. They have had an opportunity of seeing them all, and personally inspecting every one of them, as copies were given in evidence in the year 1830. They had also an opportunity of collating every letter, and comparing those facts and circumstances to which they relate, and what does it all turn out to be? I understand that the only part of the correspondence they can object to, is four letters and a half of the alphabet contained in the syllable of the word "*neighbourhood*," in one of those letters written by John Marsden to Alexander Marsden, and a pretty sort of objection this to be found in one solitary epistle amongst so many! They say that the letters "*neig*" and half of the "*h*" in that syllable is in Wright's hand-writing. My learned friend ushers this in as a discovery of the greatest importance. We naturally expected there was something to come out that was to put an end to all doubt upon the subject, and, in fact, to put an end to the case. Such rumours had got out in the town, that letters had been discovered which fifteen years ago had post-marks different from their dates, and one syllable of a word corrected, so that the whole cause was to go to the devil. I will hand







up these letters again to you, and will subject them to your judgment to ascertain whether I be correct or not when you come to compare them with Wright's hand-writing, or with any other, and you will see whether it be so or not. "Oh!" says my friend, "having here the copy kept by Mr. Marsden, there is no doubt this was intended as a copy to be kept, as they thought it not quite good enough, and they made him write another, and that these letters, or copies of letters, shew he put this to each of them, being intended, if correct enough, to be the principal." That is very true, but it was not to deceive the public, otherwise it probably would not have had his name. Then says my friend further, "This was intended to go, but it was found not to be good enough." Now, gentlemen, one of my learned friends behind, with a good pair of eyes, observed immediately that the one had been written on gilt paper and the other not. I thought it right to observe that at once, and accordingly I pointed it out immediately; but whether the observation would apply to the others or not I did not know. I said, "I will by and by point it out to the jury, in order that they may judge for themselves: accordingly you shall have these two letters. You will observe, gentlemen, that this copy is not written upon gilt-edged paper, but the one that was actually sent to Mr. Alexander Marsden is so. The other two are not upon gilt-edged paper; and you remember I made that remark before the others came out, as they proceeded in proving their case. My friend seemed rather disposed to remind you that he had put it so; but I do not mean to put it solely upon this single case. But I say to my friend, "You did so pledge yourself to that suggestion, as counsel for Admiral Tatham, and having had all these papers to select and compare, that was your proposition to the jury." I need not appeal to any thing but the fact. Could Mr. Marsden have signed all these copies upon plain paper, and have written one of each of all these others upon gilt paper, except he regularly intended to write the principal one upon gilt-edged paper? I believe you will find that all his important letters to his relations are upon gilt-edged paper; and Marsden being a very polite man, as a lady says, even to excess, as to over-civility, he naturally wrote his complimentary letters upon gilt-edged paper. "But," says my learned friend, "here are the letters '*neig*' and half of the letter '*h*,' which are written in Wright's hand-writing." What do you say to that, gentlemen? I will look at it first; I will see whether what my friend says be true or not. I then asked to be allowed to take that letter home with me, and permission being granted, I then saw another *ne* in the word June, which you will find in the upper part of the letter; and it is for you to decide between us, but I must say, that if we put it before the eyes of any man who has experience in hand-writing, it is perfectly evident. It is not to be decided by Crook, the banker's clerk, already called, and from what he says, he knows less of his hand-writing

than I do. My friend, however, for the purpose of this cause says, that from the beginning, it was either Wright or George Smith who corrected and revised Marsden's letters; at least so he supposes; but is it George Smith's hand-writing or not, or are the alterations in the hand-writing of George Wright? If it be in either, I will consent to give up the cause. I say, however, that if Wright had happened to come in when Marsden was poring over an error, and if he said, "do let me rectify that error for you, I perhaps can do it better, as you are so near sighted," I may submit there is no foundation for the observations that have been made upon it. If you, gentlemen, think that the whole letter on that account be not written by Marsden, I will consent to give up the cause.—I beg you will attend to this, and you will perceive what a credulous and dangerous thing suspicion is! 'Then my friend seems, with his fine spun theory, to glance at the other one, which was upon gilt paper, as it very plainly shews, that it was the ultimate fruit of his labour, like the web of a spider, and he sends it away. You will be upon your guard, however, against my friend's suspicions, for there is no end of incredulity and suspicion in this case. There is no doubt an erasure, but, I have, perhaps, done something wrong in talking about four letters, and a half; I need only call it three letters and two halves. I have examined this minutely, and I beg you will look at it. I think it was originally written *negh*, perhaps it was altered to *neigh*, so that when it is written upon an erasure, you will find the *ne* precisely corresponds with that *ne*, and the slightest touch of the pen given to the *i* could not give any character to any one's hand-writing. The clerk to the bankers, I suppose, is not bold enough to swear to a dot. What I state, however, is perfectly true, as you yourselves will see. Besides this, you will perceive, in Marsden's writing, that he was in the habit of writing *g*'s with a turn in that way, [demonstrating it on paper], while, on the other hand, Wright wrote it more straight down in this way, [demonstrating it.] But, gentlemen, I ask you, does any man ever write upon an erasure, if he can avoid it? When Marsden came to write this, he put the *g* straight down, so as to get out of the scratching occasioned by the erasure. This accounts for the *g* being written more straight down than was usual with Marsden, and you will find that the *ne* is just as much in Marsden's hand-writing, as the *ne* is in the word *June*, at the top of the letter. I beg you will look at it minutely, and you will see whether what I now submit to you, be not obvious to the eye of any man who will take the trouble of looking at it [handing the letter to the jury]; and I do assure you, gentlemen, I present that to your observation and my lord's, with this view of the fact, which I have only now taken up, as it was never previously laid before me. I can refer to no one but yourselves to prove it, although even idle habits might have led me to procure





evidence of it, when tracing and comparing hand-writing, even in court. Then, I say, gentlemen, if upon that point you have a doubt, I would almost consent, like my friend, to give up the cause upon it.

Now, gentlemen, having disposed, as I think, most satisfactorily of this *mare's nest*, (for I may give that appellation to my friend's objection without any disparagement of his discoveries,) let me call your attention to the further evidence of Dr. Lingard. He gave no such evidence at York, as Sir James introduced him with here, relative to his history of England; but my friend supposed it would read well. He introduces him with the question, "You have published a history of England?"—So he has, and a very elegant composition it is, as I understand; but I do not know that he, as the author of it, can come to a better conclusion upon this point, than any gentleman like yourselves. I do not see why the judgment of gentlemen of your experience, who have all spent your time more in the world than he has, should not be worth fifty Dr. Lingards. The question is, has he proved this? What is a man's criticism worth, who sits down with a preconceived opinion to write something upon a given subject, what does all that amount to, when you find the principal letter here, with a gilt edge, while the other copies are not so? Such preconceived opinions of others pass away like the dew of the morning. What does the criticism of Dr. Lingard amount to? Not that we have heard his opinion to-day, for the first time. I have not had an opportunity of reading these letters since, but I beg to read this one to you, first observing, that this was the letter that Dr. Lingard was requested to read, before he stated his opinion.

GURNEY, B.—It was one of Marsden's correspondence, with Mr. Alexander Marsden, I believe.

ATTORNEY-GENERAL.—Yes, my lord, it was this one with two other letters from Marsden, which afford internal evidence of their being genuine. In the first there is no grammatical error except one, that Dr. Lingard could discover. This is the letter dated Hornby Castle, 20th November, 1811, addressed to Alexr. Marsden, "Sir, I was indeed surprised, but very agreeably so, on the receipt of your letter you honoured me with. I was highly, &c." Now, I take it that this is a grammatical error in this letter which the Doctor means to say he found out—"was highly obliged by the frankness with which you have communicated to me your *dissent*;" that last word is spelt here with a long s, contrary to correct orthography, and is, in fact, quite a different word from *descent*, which is meant. Then he says, "it is with pleasure that I state to you a short history of mine; if from thence it can be ascertained that I have the honour of a relationship to a family of my own name, in every way so respectable as yours, it cannot fail to afford me the highest gratification." There is no letter-writing book which would not enable any body to write any letter as well as this; Mr. Dawson's letters alone might have done it, or

Mr. Ellershaw's letter. Then he goes on, "My ancestors resided for some centuries at Gisburn Hall, in Craven, and had considerable possessions there, and also in a village called Marsden, near Colne, from which I presume they originally sprung, they had also possessions in the borough of Clithero, and one of them sat in Parliament for that place. I believe a branch of my family settled at Manchester two hundred years since, and I have heard that some of them afterwards removed into Derbyshire." This, you will observe, gentlemen, is called a letter in very good style, and even very grammatical, according to Dr. Lingard, with one exception, in so much, that I suppose it might be a letter entitled to a place in his history, and yet you find those errors, which, although trifling, appear to have been overlooked by the Doctor. It goes on to say, "sat in Parliament for that place. These possessions has long since been all sold." Is there any science, literature, morals, or religion in this letter, and yet, this is, according to the views of Dr. Lingard, to be preserved as a monument of style. Then it says, "their arms were the same with mine;" that is not very good, as a good writer would say, *as mine*, and not *with mine*. Then we have this, "my ancestors removed to Wennington Hall, near Hornby, about the year 1600" What do you think of that style? The next passage is, "My grandfather, Henry Marsden, died about seventy years since." Does that betoken such elegance of style as is worthy to bedeck the pages of history; or do you see here any pathos or marks of cultivated understanding, powerful and vigorous imagination? Does this correctly describe the character of Dr. Lingard's history? If you have never read it, I am persuaded you will do so with pleasure, and there you will find a vast difference of style, for I admit that Dr. Lingard is so far the master of style that he does write an exceedingly pleasant history from what I have perused of it, when Mr. Mawman put it into my hand. I said, indeed, that there was an extraordinary redundancy of ornament, without its having the appearance of it, even upon points that did not appear worthy of it. Then, gentlemen, what do you think of this next passage in the letter. "My grandfather, Henry Marsden, died about seventy years since, leaving my father, Henry Marsden, his only son. He died about fifty-three years ago, leaving my eldest brother Henry, and myself, his only issue. My brother died unmarried soon after coming of age;" that, you will say, is not very good writing, "when I became sole descendant of my family in the male line, which on my death will probably become extinct, as I have never been married. If this detail should induce you to make further inquiries, I shall be happy to give you all the information in my power. Your obliging tenders of hospitality to any relative or friend of mine merits my warmest acknowledgments." I think Dr. Lingard must have seen some garbled copies corrected, when he gave his opinion that it is a letter of superior style; he never could have seen the







original, otherwise he would have detected those errors. Then the letter goes on and concludes thus—"and should it be in the shooting season, I think I can promise as much diversion in that way as most private country gentlemen can command.—I am with sentiments of the highest respect,—Sir, your most obedient, and very humble servant, JOHN MARSDEN. (Indorsed.) Copy of a letter to Alexander Marsden, Esq., Dublin."

Now, I beg to ask you, gentlemen, having heard all this stated, do you think that Mr. Gardner, the coroner, who comes from Garstang, was guilty of the grossest perjury, when he said he held a conversation with Marsden, who he thought, (and he stated this strongly) was a man who knew more than persons in general imagined; that he stated to him some facts that were entirely new; they were, that the Lonsdale family were connected with the law, as was the case with some of their ancestors in the reign of Edward the Third, and that Justice Gould's daughter was married to Lord Cavan? Says my friend, "I will explain that;" he says, "Bleasdale was the solicitor of Mr. Justice Gould's executor, and he had talked to Mr. Marsden as to that." Did he put the pedigree into his hand, or did he instil it into his mind, in order, that thirty years afterwards, he might state that as a pedigree, so as to leave nothing to be endangered by such a suspicion as this? I ask you, is Mr. Gardner, the coroner, perjured? If he be not, then Marsden was well versant in what is stated as to pedigree, when he says, "the male issue is extinct" and so on. Do you think that any man can read any book upon the peerage, without being acquainted with those phrases? Then Dr. Lingard looks at another letter, in which he points out some grammatical errors, but these amount to nothing material.

Then, the next letter shewn to Dr. Lingard was from John Marsden to Alexander Marsden, dated Hornby Castle, 22d June, 1812. In it he says, "My Dear Sir,—I was duly honored with both your letters; the reason for my not answering the first sooner, I expected to have had the pleasure of sending the drawing I promised you with it." There is here only a single word wanting to make it good sense, and that may have been a mere omission. Then, he says, "The artists in this part are so very scarce in that branch of drawing, that I could not meet with one that was able to execute to my wish. I expect to have it done soon, as there is one coming to Lancaster in a short time. I do assure you it gave me great satisfaction to hear that you and your daughter arrived safe and well in Dublin, after so long a journey, and travelling in such unfavourable weather, and over so mountainous a part of the country. It would have given me pleasure to have seen you here at a more pleasant part of the year, that you might have seen more of the country where I reside. With regard to the disturbed state of this country, you will most probably have heard

a great deal more than really exists." This is merely bad spelling in some trifling instances ; we have the word "*than*" instead of "*then* ;" the word "*really*" spelt with one "*l*," and the word "*exist*" spelt with a great "*E*;" but, gentlemen, it is not upon the whole, bad grammar. Then, he says, "there has been some rioting in and about Manchester, Stockport, Huddersfield, and Wakefield, but I trust there will be an end put to it in a very short time. Several of the rioters was sent to Lancaster Castle." Here is "*was*" instead of "*were*." I think you will find those blunders prevailing in the family. Admiral Tatham's note is spelt pretty much in the same way. Marsden writes: "Several of the rioters was sent to Lancaster Castle, from the neighbourhood of Manchester, and two of the judges came from London to try them, eight whom was found guilty, and executed at Lancaster on Saturday, the 13th instant." Here you have some errors, besides the one I have mentioned ; such as the word "*tri*" instead of "*try*," "*eight whom*," instead of "*eight of whom* ;" but so far from its being a worse letter than the previous one, although the Doctor said the first was in perfect style, and in good grammar and spelling, except in one instance, this you will find is very much better when you come to examine it. Marsden then says, "the last week thirty-eight was brought to Lancaster Castle, it is said for administering unlawful oaths. I hope, by the exertions that government is now making, a total stop will be soon put to it. All that has been taken yet appears to be of the lowest class, and very ignorant. I think they must, in the first instance, have been instigated by some persons of a more superior understanding, who now, perhaps, think they have gone too far. The old ministry are continued, with a few added to them ; you will most probably have seen a list of their names before this reaches you." Gentlemen, I will hand you that letter also, and you will judge for yourselves as to its style, its grammar, and orthography.

GURNEY, B.—Let me have that letter handed up.

ATTORNEY-GENERAL.—Yes, my lord—[handing it up accordingly.] Now, gentlemen, about the other letters I do not trouble you. Get me any one of Alexander Marsden's answers to it, and I will give you the real key to these letters ; it is this,—I do not set up Marsden as a person, either of a superior class of mankind, or that he was of a cultivated mind ; but I do say that he was, however plain and simple in his understanding,—yet still he was a man who knew how to act in the ordinary affairs of life ; he appears to have had the same common passions with ourselves ; he discharged his humble duties here, and he shared with the proudest in intellect, and the humblest in theory ; he knew whom he loved ; he knew he had property ; he was capable of selecting and naming the objects of his bounty ; and, if he could do that, he was, surely capable enough to destine how his property should go, and what legacies he should bestow. He, of course, knew





that he was executing a deed by which it was to go to Mr. Lister Marsden ; he wished him to possess that which he, during a period of forty years, had encouraged that gentleman to have an expectation of ; and he ultimately bequeathed it, with such alterations as he found necessary in regard to its destination.

Gentlemen, before I conclude upon the subject of these letters, allow me to read to you this one from Alexander Marsden to John Marsden.—“ My Dear Sir,—Shortly after my returning from England I had the pleasure of writing to you, and informing you of our arrival here—since then nothing very material has occurred in the public concerns of this country although a great deal that is important has taken place on your side of the water,—I had several times thought of writing to you to ask your opinion of the nature of the disturbances which have prevailed in some of the northern counties.”—Did Wright suggest to Alexander Marsden to write to John Marsden in this sort of way ? Here is a letter from Alexander Marsden to his namesake at whose house he had passed a night, stating—“ Have the rioters other objects than those which they profess, and is the evil likely to spread. There are parts of the system which very much resemble what took place in Ireland previous to our rebellion. I hope and trust however, that the vigour now exerted in checking the outrages (and which perhaps was too long delayed) prevent your witnessing scenes in any degree resembling ours. We are still without knowing how the arrangements of a ministry have been settled. Mr. Percival’s death is an irreparable loss, but as changes must take place, I hope, that, some how or other, we may get a strong government.” Then in Marsden’s answers he just takes each of these topics, and in a lower tone and humbler strain he responds to them. I verily believe if my learned friend had chosen to take up the other side, he might have said, these letters will shew an over degree of anxiety and sagacity than a childishness and fatuity, than to denominate them mere compliments, which he bestows without consideration. Gentlemen, I appeal to your feelings that so far from putting Marsden lower in the scale of society, I say that my friend would have had no difficulty, that his degree of sense was to be estimated much higher. Even that might have been admitted here. What is the opinion of Dr. Lingard when compared with these letters ? It is not a mere dream that has been put in for him.

GURNEY, B. (interposing).—Mr. Pollock, if you will have the goodness to pause for a minute or two, I have now procured a powerful magnifying-glass, which I would wish the Jury to have in their hands to view the corrections that have been made in these letters.

ATTORNEY-GENERAL.—If your lordship please.

[Here the learned judge went up to the jury and pointed out the particular portions of the letters in question that they might view

them with a magnifying-glass which he gave them. This occasioned a short cessation of the proceedings.]

ATTORNEY-GENERAL resuming.—Gentlemen, I am exceedingly obliged to his lordship for allowing you this opportunity of inspecting these letters minutely, and I do not regret the interval in the proceedings, although I have yet a good deal to get through. I was anxious, gentlemen, that you should do that at some time or another which you have now done. This is really a matter, as to which justice can only be done, by pursuing an exceedingly patient and minute inquiry. I have just made these discoveries by the purest accident. I asked for the two letters. My friends who are with me have had all the credit of making the discoveries which I have detailed to you ; you will see how far they agree with what I have stated, and that which has been stated on the other side, as to these letters, is not the true view which is to be taken of them. There was a letter read from Alexander Marsden, of the 10th of February, 1815 ; there is an answer to it on the 10th of March of the same year. The letter itself is this—“ My Dear Sir,—It may have come to your knowledge through the public papers, that I have resigned my office of a Chief Commissioner of Revenue in Ireland ; and as I am certain that you feel an interest in whatever materially concerns me, I send you a statement that I have drawn up, for the satisfaction of my friends, of the causes which led to my taking a step of considerable importance as it relates to myself.”—Gentlemen, one cannot help wishing to inquire had Marsden, by this time, seen his namesake, as he had had a correspondence with him ? That correspondence had continued down to the time they had met, and long before this the father and the daughter had spent a night at Hornby ; they dining and passing the day and evening in the company of Mr. Marsden. Now, gentlemen, you will recollect this, says Dr. Cookson, “ in ten minutes you can tell a *connate imbecile* ;” but, gentlemen, this is not a question of physic. We had a good deal of medical testimony at York.

Mr. CRESSWELL.—We have nothing to do with the medical evidence at York. My learned friend should not now allude to that.

ATTORNEY-GENERAL.—Gentlemen, I am not quite certain whether we cross-examined that medical gentleman or not ; but my friend might have excused my adverting to his evidence, and this interruption might have been spared. We have had on the other side but a few medical witnesses now, but even if we had had all the college of physicians called upon this occasion, I submit that a plain statement of this sort is better than the opinions of any physicians upon such a subject, when every sort of witness has been called, even from the stable boy, the ostler, kitchen-maid, cook and house-keeper, and the gardener, all of whom take upon themselves to represent to you their opinions, whether Marsden were in his right







senses or not ; but does the evidence of any one of these come up to this ? In this letter Mr. Alexander Marsden goes on to say, “ I hope, on reading it, you will be of opinion that I have acted rightly. Had I consulted my pecuniary interests alone, I should have taken a different line ; but considering the part I have filled for many years in this country as a public officer, and not being without the means of supporting my family with comfort, I have acted up to what I thought best became my character, in not submitting to the treatment which heads of departments here have in latter times received from the very inexperienced persons who are sent to rule over us.” I am afraid that this is levelled against Sir Robert Peel, of whom, I am sure, Sir James Scarlett would wish to speak with respect. He then says, “ I have the most gratifying testimonies, both here and in England, that my services were, nearly in all quarters, justly estimated, and the loss of them to the public regretted.—In the month of March I intend taking my family to the Continent, where we shall probably reside for some time, and be less sensible of the change in our situation than if we remained here.—I am sure you will excuse me for troubling you with this history ; but in what relates to the honour and character of the name, I think I am not mistaken in making you a party.” Is it not plain that they had had some conversation as to their family when he was there ? Is not this a confirmation of the evidence of Mr. Gardner, of Garstang, when he here says, “ I am not mistaken in making you a party ” ? How did he find that out ? He had been at the house, and had talked of the Derbyshire branch and the Lancashire branch, and he had seen that person whom Dr. Lingard thinks could not write ; then he concludes, “ I beg you will present my compliments to Mr. Wright, and believe me always, my dear sir, yours very faithfully, A. Marsden.”

Now, gentlemen, here is the answer to that letter, written by Mr. Marsden, dated the 20th of March, 1815—“ My Dear Sir,—Before I was favoured with yours, I had read an account some time since in the newspapers, of your having resigned the office”—it is very likely. Does not this shew that Marsden read the papers, and was it not very probable that this would attract his attention, and does it not shew that Marsden forgot nobody ? I have had it in evidence that he remembered his oldest school-fellow, and so, also, in regard to his master of early years, when on seeing him long after, he expressed his feelings with joy, when he exclaimed, “ what ! my old schoolmaster ;” and on another occasion, when he expressed his feelings with the words, “ oh, how I rejoice to meet my old school-fellow !” Gentlemen, I appeal to you whether that one touch of human nature be not well worth all that the Dr. Lingards, or, the Mr. Alexander Nowells can say against him. When he sees his master, you have been told he exclaimed somewhat to this effect, “ Oh ! my old master, he

must have the school." You can figure to yourselves what was the sudden burst of feeling he shewed, when he exclaimed, "what! my old master—he must have the school!" Then, gentlemen, here is the remainder of the answer, "which rather surprised me, till I had the pleasure of receiving your letter and statement: after perusing them, I am of opinion, that as a gentleman, you could not act otherwise than you have done after such behaviour as that of Mr. Peel's."—Mr. Peel is not mentioned in the letter, but he is mentioned in the statement alluded to. I do not trouble you with that, as it is not very interesting. It goes on to say,—“it has been very much regretted in this country your declining to act, as it is supposed the revenue must suffer for some time before the person that is to fill the office, is acquainted with the business of it, let him be ever so clever.”—Even a person who had turned away a gate-keeper of a road must have known that when a person comes into a new office it is some time before he can fill it correctly; so, in this instance, Marsden says, “I shall never forget my friends.” Mark the degree of intellect with which he is taking up the topic that had been touched upon! But, it may be said, this required no great talent—be that as it may, I precisely say that this is actually displaying that degree of intellect, which is alluded to by Mr. Baron Bolland, Mr. Birkbeck, and all the doctors, of whom on our side there are three; and it outweighs the evidence of Dr. Cookson, who speaks of connate imbecility being so easily discovered. Those other individuals saw him and conversed with him, and their evidence is in conformity with this letter. He goes on further—“Had I been able to cross the channel I should have availed myself of your polite invitation to Dublin. I am now growing into years and I have given up all thoughts of travelling, except to see my friends near home. When you return to England or any of your family, I shall be always happy to see you or them at Hornby Castle. I beg you will present my best regards to Mrs. Marsden and the ladies, and believe me to be always, my dear sir, most faithfully yours, John Marsden.”

Gentlemen,—this is a letter, I may say, that is written in a superior style; is it not in a lower tone and more appropriate, than even Alexander Marsden's? This correspondence does not raise him, it is said, in the opinion of the Secretary of state for Ireland. Mr. Alexander Marsden may have been disappointed, and he thinks it a great pity that Lister, who is not of the same name, should come forward. Mr. Alexander Marsden was there, and if he expected a legacy, he must have thought that Marsden was capable of leaving it. The more he looked to the estate, the more clearly does this evidence shew he thought Marsden capable of leaving it to him.

Then, gentlemen, my learned friend made one remark which I own was scarcely in that spirit of frankness which ought to characterize these proceedings. He knew perfectly well (and I





do not disguise the matter at all) that in addressing you, gentlemen, well versed in the business of life, he could make a strong impression upon you, in speaking about the accounts—that they might have some effect in favour of his client—he thought that it might tell. Gentlemen, my lord will tell you this—that that bill in equity, which was filed in Chancery, was filed as a mere matter of course. Both the bill and answer are upon the table, and you may see what they are about; and in relation to those proceedings, all letters must be placed before the court of Chancery. That court has already examined the question minutely upon this particular point as to accounts. We are not here to investigate accounts. Am I to call every person to whom a bill was paid? Gentlemen, that is not to be done here; but if it be yet to be done, they having relation to the personal property, it must be proceeded in either in the Ecclesiastical Court, or in the Court of Chancery, whenever Admiral Tatham shall have the courage to do so, as that is a question of personalty. The trial at York was not to decide that question, as to matters of account, but it was to inform the conscience of the Court of Chancery.

There have been already many discussions and investigations of every topic that could arise out of the question of accounts. That was a question distinctly and peculiarly fitting to be discussed before the Court of Chancery, that very Court, from which the issue emanated, and that very Court which refused a new trial of that issue. Gentlemen, what will you say, when you find appended to that answer all the accounts and entries of the books. There is every one of them stated there, and our opponents have had it in their power to call for them, they never made any objection to them, although they have had that opportunity afforded them. They had the same power to see every entry, and of that I beg his lordship to be apprised, in order that his lordship may inform you of the effect of them. All the books and accounts, amounting to from ten to twenty books, containing all the rentals of the estate, the payments received, and the disbursements made, and every thing upon which that court required information, and which we had notice to produce, the moment the answer was put in.

Mr. CRESSWELL.—I do not know what right my learned friend has to allude to, or state the nature of the contents of these books on this occasion; he may state that he has scheduled the account books, but has not produced them in this court.

GURNEY, B.—Does that appear from the answer, that all the books of account were produced in chancery, pursuant to the schedule?

ATTORNEY-GENERAL.—Yes, my lord.

GURNEY, B.—Then the answer with the accompanying schedule is in evidence.

Mr. CRESSWELL.—They may be in court, but the contents of them have not been put in evidence before the jury.

**ATTORNEY-GENERAL.**—Gentlemen, the answer in the Court of Chancery was such as contained Mr. Wright's statement of facts. I have here no right to produce any thing but the schedule to the answer, and I have a right to look at that ; if so, I have used it, and my friend on the other side has used it with reference to particular letters therein contained. I will not state the contents of those books, but in my reply I have certainly a right to look at that schedule, to ascertain what the opposite party had had in their power to see. If I find that they themselves have looked at it, and have been satisfied, and that the Court of Chancery have been satisfied in regard to those books, have I not a right to inform you of that circumstance, and that the accounts which have been so much heard of, as not being before you, have been all entered, and shewn to have been settled, and when and how that took place ?

**GURNEY, B.**—Then, was the bill dismissed upon the footing that the issue as to the accounts had been gone into ?

**ATTORNEY-GENERAL.**—I do not know, my lord, that that was the ground upon which the bill was dismissed ; but all that I mean to say is, that they have had the power of examining every document relative to the accounts, and all the letters and documents that are enumerated in the schedule.

**GURNEY, B.**—But at the time the Court of Chancery decided upon that verdict formerly given upon the trial of the issue, was it dismissed, so that the heir-at-law then ceased to have a right to call for accounts ?

**ATTORNEY-GENERAL.**—But long before that he had the means of calling for every one of those books.

**Mr. CRESSWELL.**—If so, they are not now in evidence.

**GURNEY, B.**—It is an admission of the contents of the books generally having been communicated.

**Mr. CRESSWELL.**—I stand before this court, and I make this objection ;—my friend was about to state the contents of those books, which, I submit to your lordship, he has not a right to do, as they are not now in evidence.

**GURNEY, B.**—I thought the Attorney-General withdrew that some time ago.

**ATTORNEY-GENERAL.**—Then, gentlemen, I will not do it ; I will not fall into the error of my learned friend ; but I do implore my lord to glance at the schedule, or to look it over, and see what books and accounts are enumerated as being appended to the answer. Gentlemen, the fact is this, that they had the means of calling for every one of those books as they had of calling for the letters,—they had acquired a right in Chancery to inspect and to take copies of them,—they urged in that court every objection to them ; and I have not learnt that any part of those accounts had been found in the slightest degree unsatisfactory, but, on the contrary, it appears that they have found Wright was a faithful and honorable steward







of Marsden; or if they had found that Marsden had been imposed upon in regard to a single shilling, either of receipt or disbursement, they were quite at liberty to have filed another bill in the Court of Chancery, or in the Ecclesiastical Court, and they might have made those accounts evidence either at York or here; but if, in the performance of my duty, the whole burthen of a case like this be to be thrown upon me, I am not to be taunted because I merely propose to refer to those books. Are my learned friends afraid of their case, or are we to be put to shew we were faithful stewards? Does not this shew whether my friend thought he had a sufficient case or not? It certainly shews that their case will not bear the production of these accounts; for by their not adverting to them, it is evident they acknowledge these accounts had nothing to do with the cause. They are, as I conceive, equally open to both sides; but the non-production of them by our opponents, shews that those accounts were settled; if not, they have had, and still have, the means of shewing every account that Wright kept, and every report made,—they have had the opportunity of taking copies of them, and, if they liked, they might have objected to the last farthing. If Mr. Wright had taken a single shilling he was not thought entitled to, they might have laid that matter before you. Gentlemen, I do wish, since the matter has been touched upon, that this part of the case should be thoroughly understood. It is the first time that my learned friend has dared to put it forward, and I trust I have put in an answer. If so, why should I have been taunted with the weakness of my case? It was for them, if they chose, to have even lengthened the case still further with these accounts, if they were aware that any transaction could be impeached.

Now, gentlemen, as to many other parts of the case, which still remain, you should look to the parole evidence. I shall say a word or two as to that presently. As to Mr. Gladstone's evidence, it is, that he went there with a particular impression upon his mind, but that he did not stay long enough to have that impression removed. He had heard something, but that was not evidence. Then he says, "I went there, and I found Mr. Marsden rather desirous to decline conversation, and I concluded he was incapable of entering into it;" so, also, did Lord Stanley. His lordship did not state more than that he went there, and that Marsden was very civil. Lord Stanley was a candidate in 1812, and he says, "in the course of calling upon the electors, I went to Hornby Castle—I saw both Marsden and Wright—I saw Wright first, and; shortly after, Mr. Marsden; I asked Mr. Marsden for his vote and interest; Mr. Wright proposed some refreshment, and then left the room. I addressed Mr. Marsden on the object of my visit; he treated me rather shyly. In a short time Mr. Wright came in again, and took upon himself the whole of the conversation. He informed me that Mr. Marsden would like all his tenants to give me a vote, and turning towards

him he said, "would you not, Mr. Marsden?" I do not know that Mr. Marsden introduced any conversation; I staid about half an hour. I think I once met Mr. Marsden after that visit, when I was at the judges' lodgings; at dinner. I was much surprised to see him there." It appears that Lord Stanley came away under the impression, that Mr. Marsden was not fit for business.

Then there is a Mr. Rawsthorne, who was the agent of Lord Stanley in the year 1818. He tells you that he went to canvass at Hornby Castle; that he saw there Mr. Marsden, who could say nothing upon the subject, and that Mr. Wright was from home. It appears, that the moment he mentioned the subject he called upon, Marsden declined, intimating to him, that as Wright was out, he could not enter upon the business. I do not know how any man, like Mr. Marsden, should have given a more sensible answer than that.

Now, let us go a little further forward. My learned friend then cited the law as applicable to the case. Gentlemen, you will have that by and by from his lordship, upon the best possible authority; but I cannot help now, before I make some further observations upon the case, in another point of view, saying a word or two as to the law upon the subject. My learned friend, gentlemen, cited to you the case of *Marsh v. Tyrrell and Harding*, and spoke of that as resembling in some degree the present case. Gentlemen, that was a case, where the will of the wife, made in favour of her husband, was set aside. My learned friend commented at some length on the case, treating it as a matter of history, and told you that the lady was said to be of weak intellect; that it appeared, the husband had employed Mr. Tyrrell, the City Remembrancer, who applied to a medical gentleman, (rather a suspicious beginning), that medical gentleman called in being his brother (that does not reduce the suspicion); that then Dr. Burrows, (commonly called the mad doctor, and perhaps not improperly, but that too is rather suspicious) was consulted, and that it was ultimately found, that the lady had made the will in question, under her husband's control. Gentlemen, that is the substance of that case. Now, gentlemen, you will observe, that by the law of England, a married woman cannot make a will, except under peculiar powers reserved to her; such powers were reserved to the lady in that instance, and she had made a will at a time when she was of competent mind; but she subsequently altered it, under circumstances of such control and influence of her husband, as induced Sir John Nicholl to think, that the will she had last made ought to be set aside. I do not go into a minute detail of the report of that particular case, which occurred in Doctors' Commons; but I find this laid down as the ground of the decision: the judge said that the will contained a clause effecting a great change in the disposition, the character, and





objects, of all those former wills, which appears totally to have been abandoned. It was necessary, therefore, to inquire into the probability of this great change of intention; for if the capacity of the deceased were weakened, or of a doubtful nature, the influence and control of the husband must have had great weight in showing that he was the person originating the whole business as to that new will. Now, gentlemen, you are aware that the object of the former wills was to leave a large property to another relative of the deceased, the husband himself being a man of independence and of large property; those were the grounds upon which that will was set aside, although my learned friend, Sir James Scarlett, dwelt only upon the other circumstances of the case, in introducing it as analagous to the present. In that case, the latter will created a total change in the disposition of the property; and it appeared that the husband must have originated and conducted that change.

Now, gentlemen, in the present case, had any learned doctor, known to Admiral Tatham, been consulted, he never having entertained any doubt, nor stated any as to Marsden's sanity, during his lifetime—whether he himself contributed to the reports that were circulated, I cannot tell; somebody must have been very anxious on those occasions, and it is clear that he was much in the neighbourhood; and if any one must have heard them, he himself must have been aware of them. He may have thought, however, that reports were better to be listened to than inquiries to be made: but I ask, what pretence is there for saying that he had anything to do with any of the former wills, of which there were a great many? The question is, was the transaction done openly? There is evidence that Wright never interfered, in the slightest degree, with any of those wills, but that a variety of solicitors were employed; so much, then, for my learned friend's law. I believe Sir James quoted some other case to shew, what was to be deemed a sound and disposing mind; but this may be taken as the rule, that every person is to be presumed to be sane, and perfectly competent to make a will, unless he be actually proved to have been of unsound mind. "Oh," says my friend, "I will undertake to shew a case of undoubted lunacy, at a certain period, against Mr. Marsden," who, in fact, appears to have been of unvarying mind, in respect to his client, during all his life. I do beg, gentlemen, that you will never forget this fact—that at fourteen or fifteen years of age, he, being the youngest child of the family, is shewn to have been sent to a school, so that he was not a child entirely brought up in the nursery, nor merely educated by being used to a horn-book; for it is also shewn, that he was afterwards, by his master, of his own accord, put into Latin. Now, it is clear, that one would hardly think of putting him to read Erasmus, before they had instructed him in reading and writing, and the common rules of grammar. I hardly know

whether the Hamiltonian system had got much into the North of England at that time ; but this I know, that the school at Kirkby Lonsdale, where he was put, has produced many eminent scholars, one of whom was no less than John Bell, the king's counsel, who, independently of his hand-writing, has certainly acquired great reputation as a sound equity-lawyer. Now in regard to Marsden, I scarcely think that any one would have turned over a raw boy, or one at his age, to read Erasmus, without his having learnt some of the previous principles of education ; and I submit, that if it could have been shewn that Marsden had never learnt any reading, writing, or grammar at all, then there is an end of this cause.

Before I make any further remarks upon the evidence which has been adduced by my learned friend, I will call your attention to a passage from one of the very highest authorities, and it is fit, in this part of the case, that the jury should be informed of the observations therein contained ;—they are observations as to the testimony of servants and workmen, who, of course, are often called to give evidence on such occasions, in respect to the alleged insanity of a testator ;—and the reason why a jury should pay very little attention to those of that description who have been called on the other side, upon this investigation. The authority I cite is in second Phillimore, page 456 ; where you will find that the observations of Sir John Nicholl, in the case of *Kinleside v. Harrison*, upon that subject, are to this effect. “ From what has been stated, it is obvious that the leading point in the cause is the deceased's capacity. To all persons who are in any degree conversant with the proceedings in this Court, it is well known that, upon a point of capacity, evidence, apparently the most contradictory, frequently occurs, nor is the circumstance difficult to be accounted for, without imputing to either set of witnesses intentional falsehood ; and certainly it is the duty of the Court to endeavour in candour to reconcile apparent contradictions, rather than to attribute perjury to those who are called upon to give evidence before it. In the first place, it may be observed, that a large portion of evidence, as to capacity, is evidence of mere opinion, and, upon matter of opinion, mankind differ, even to a proverb. In the next place, there is no fixed standard, by which each witness draws and estimates his opinion of capacity. One person seeing a testator in extreme age, or under extreme sickness, thinks that if he knows those about him and can answer an ordinary question with respect to the kind of his illness, or of his wants, such small matters render him capable of giving effect to a disposition by will, however complicated it may be, by the mere formal execution of an instrument ; while another person may be of opinion, that though the testator is in the ordinary management of his own affairs, and can hold reasonable conversation, and is fully competent to the usual and simple transactions of life ; yet if







he is unable to take the active management of all his concerns, however complicated those concerns may be, or if he be liable to become confused by entering into intricate transactions, he is totally incapable, and cannot enter into any testamentary disposition, however plain and simple it may be. Now, where opinions are formed by such different standards, it is obvious that much variety must take place. Differences will also arise from other causes ;—first, from the different abilities of witnesses to form such opinions,—secondly, from their different opportunities of seeing the person,—and, thirdly, from the different state and condition in which the testator may be at different times. It is certainly true, that the study of the human mind is an abstruse science. The different lines and traits of the understanding are matters which attract the notice and consideration of the intelligent. Ignorant persons, and enlightened persons, will form very different opinions upon subjects of this kind. Ignorant persons, servants, and those in their condition, who form their judgments in the conversation of the kitchen, or otherwise, are very apt to form erroneous opinions upon matters of this sort ; and this will be the case even without throwing in the additional ingredient which takes place in those circles. From loose suspicions and prejudices, they, in their judgments, are often biased, and carried out of their true course. In the next place, from the different opportunities persons have of judging, they will form different opinions ; persons who saw the testator only occasionally, will form different opinions from those who had better opportunities of judging. We know that little appearances occurring in this way are extremely fallacious, yet we can find occasional observers depose with great confidence. It frequently happens that the most ignorant are the most confident.” In this case, gentlemen, you have seen most marked instances of the truth of this observation.

Then, gentlemen, Sir John Nicholl proceeds to say, “ In this case we have the gardener speaking of the deceased, who was always deaf—sometimes nervous, and whom he only sees in the garden, but seldom converses with him, yet venturing to swear (truly, I have no doubt, in his opinion,) that he is quite certain the deceased was not capable of making a codicil, during any part of a particular month, which happened to be three years before his examination. This kind of opinion is still more various where the testator’s capacity is fluctuating ; where he is sometimes better and sometimes worse. This is generally the case with persons labouring under old age and other infirmities ; it is so even where there is no special attack occasionally operating,—an accidental cold, or other indisposition, often renders an old, infirm person worse one day than another. After a good or bad night such a person will be either alert or dull ; so, after a night’s sleep, a person may be active, and capable of considerable exertion ; even in matters of business, who, in the afternoon, while the process of digestion

is going on, shall appear drowsy and torpid, and not able to rouse himself into action. The humour of a testator will also sometimes make him apparently almost fatuous, or induce him to rouse himself into exertion, as the occasion is either interesting or disagreeable to his inclinations. Now, these different considerations—and they might be much more spread,—while they tend to reconcile apparent contradictions of witnesses, render it necessary for the Court to weigh such evidence with very great attention;—to rely but little on mere opinion, to look at the grounds on which opinions are formed, and to be guided in its own judgment by facts proved, and by acts done, rather than by the judgment of others. 'These preliminary observations, may, by being applied to the evidence, save the time and the trouble of rebutting them when the depositions come to be stated.'

Now, gentlemen, I have quoted this book to shew what Sir John Nicholl thought of the testimony of servants, gardeners, and workmen, of various descriptions employed about the deceased, and that they are in general to be suspected. What are we to say as to the evidence of such persons called in this case, some of whom were in the humblest capacity, and who have introduced into their testimony circumstances said to have occurred to their recollection fifty years ago, and that, too, with an extraordinary degree of confidence! I will give you an instance,—you may remember that there was a deaf person examined the other day who was asked, "did you ever hear such and such a conversation as to Marsden?" Then he tells you that he heard so and so. This is the most ludicrous sort of evidence that ever I heard of in my life; although he told you he was deaf all his days, yet he seemed disposed to tell you stories without end, and would have engaged us in conversation up to the present moment without knowing the real merits of one of them; and then he winds the whole up by adding this, "I remember every thing as well as if it was yesterday." What do you think, gentlemen, of Admiral Tatham's mode of impeaching Marsden's sanity? That was about fifty years ago. Now, having made these preliminary observations, I come now to allude to the testimony of the servants and workmen of various descriptions, who were employed at some time or other in the family, in order to call your attention to the suspicious statements you have heard. I should hardly do justice to the case if I did not bring your attention back again to the real facts of it. In the first place, it cannot have escaped you, that in the evidence of Enoch Knowles, he gave you some account of what he calls the threat of Wright, as to throwing Marsden into the river, and it appears that the witness, George Armistead, gave an account of a transaction somewhat similar. No one can doubt that this is the same occurrence they both allude to, and I will tell you why,—because Enoch Knowles was present on one of the occasions, as Armistead had sworn; Enoch Knowles does not swear





to two, but to only one ; but the whole of the circumstances shew it was clearly the same transaction. It was to this effect—that on one occasion when the men were raising some stones from the river, Wright said to Marsden, “ If you don’t go out of the way you shall be thrown into the river.” Now, Armistead’s account is, that Wright said, “ get away with you, or they will throw you into the river.” This might have been said naturally enough, as Wright may have been only alluding to the dangerous situation in which Marsden had placed himself, he being a gentleman so near sighted ; but, still, it might not have been intended as a threat to do so. You well observe that Enoch Knowles is a very shrewd man, “ Oh !” says my friend, “ that won’t do. Marsden was fifty yards from the bank of the river, therefore there could be no fear of his falling into the river,” so that I was out of Court, if I had gone on in that way ; but then comes Armistead, who relates the same story, as to Wright’s rudeness. An attempt was made to make this as an occurrence in different years, but it is impossible ; but take it in any view whatever, what does it amount to ? Wright being afraid lest Marsden might fall into the river, he is anxious to place him at a distance. I might upon such an occasion repeat to you the evidence of various witnesses, of a similar description alluded to, such as that of Tully, Jennings, Agnes Hogarth, and others ; the recapitulation of which would be tedious and uninteresting to you, after the fatigue you have already endured.

I beg leave, gentlemen, to call your attention to one or two other matters before I sit down. Much has been said as to the character of Bleasdale, and considerable attempts have been made to impeach that gentleman. My learned friend threatened to read Mr. Bleasdale’s examination before the Commissioners in order to contradict him in what he had stated at the trial at York. I wished him to do so, but he said it was only the fact of a letter which prevented him doing so. I admitted it—and said, “ if there be any copy of it, let it be put in.” Gentlemen, I wanted it read. I thought he would not read it, and he accordingly went home and considered about it, but did not ultimately trouble you with that examination ; I wish he had. I cannot state to you the contents of it, but I have a right to say this, that when my friend looked over that gentleman’s deposition, he found, that for one contradiction, there would be two confirmations of the evidence he had subsequently given ; he had not the courage to read it. Gentlemen, I suspect you may think I am a little too eager in searching after the truth. I offered to make any admissions that would prevail upon them to put in the deposition alluded to ; then will think my opponents, “ why should Mr. Pollock be so anxious that we should read that deposition ? let us see how that stands ; Oh ! no, that will not do ;” so, gentlemen, there is an end of that. The fact is, Mr. Bleasdale had stated that he never made two wills ; but, says my friend, “ I have proved so

and so as to a bill having been sent in by Mr. Bleasdale relative to another will, which will was found amongst the papers at Hornby Castle with reference to a very different period, namely, in the year 1792. There is there a charge of six shillings for the carriage of a parcel, and some other charge of a guinea, in relation to engrossing it. Then my friend has called Mr. Loftus to speak as to that point; but that gentleman, who is highly respectable, has been obliged to say that it has nothing to do with the making of a will, so that it merely appears to have been a draft sent to town to be engrossed at the stationers, and thence arises the charges made in the bill. I shew that Marsden was even then meaning to make his will, and it confirms my story without at all breaking in upon Bleasdale's character. Mr. Loftus, who is well known to be a man of honour and integrity, tells you that it is no evidence at all of any will whatever being made by Mr. Bleasdale: but that it is merely a charge by the stationer, and for the carriage of the parcel. "Well but," says my friend, "there was some codicil made in London." Bleasdale was examined in York, and he was asked about it. Bleasdale's evidence upon that point when he was in the witness box was this, he pointed out Mr. Loftus in court, (as that gentleman himself tells you he sat opposite to him on that occasion,) he pointed him out, and referred to him, as being able to confirm what he stated; but, still, gentlemen, you find Mr. Loftus was not then called. Mr. Bleasdale is now dead, and to-day they bring Mr. Loftus for the purpose of contradicting him, although he was present on the former occasion, and referred to by the witness himself, and yet they never spoke to him upon the subject. Mr. Bleasdale is asked, "Was any of the wills alluded to made in London? None."—"Are you sure of that? At least, I believe so."—"Recollect? I have no remembrance whatever of any will being drawn by me in London; I cannot charge my memory; I believe not; I have no reason to think otherwise."—"How often was it he went to London—he did not go every year? I remember his coming to London three or four or five times—I am not sure."—"Did not Mr. Wright come with him? He did."—"And lived in the house with him? Yes."—"Did he not execute some will when he came to London? I have not the slightest idea of the sort."—"Did he never execute some will in your presence, when Wright was also present? Never."—"That you are sure of? Yes, I am sure of that."—"I mean in London? No, he never did."—"But, if he did execute a will in London, was Wright present? No, never."—"Did Wright ever bring him to your office to execute a will in London? No."—"He never did? Never."—"You had a clerk of the name of Loftus? Yes, there he sits; he is one of my successors." (Pointing that gentleman out.)—"Did he ever witness a will of Mr. Marsden's? I think not; my reason for so thinking is this—that







we had clerks from the north of England constantly in the office, who, in a case like this, would be very curious, and my business was to prevent that, and I have a stationer's bill for some wills, which are at your service, if you like."—"I do not want them. Had you not a clerk of the name of Tatham? No; not that I recollect. I beg pardon; we had one of that name."—"Have you no recollection that those clerks, Tatham and Loftus, and another clerk, were witnesses to another will, executed in London? I have no recollection of it whatever; I should be astonished if it were so."

Thus, gentlemen, you find that upon that occasion Mr. Bleasdale appealed to Mr. Loftus, and yet they did not think proper to pursue the inquiry; but, because Bleasdale is now in his grave, Mr. Loftus is called, as they thought to contradict him, for then, by that time, they found that Bleasdale had left Wright his property. Mr. Bleasdale was at the head of a most respectable firm for twenty years, as a solicitor; he left him real property to the amount of £2000. or £3000. and his personalty, which was proved under £16,000. he having been unmarried, and having but little or no personal expenses to bear; he left also all this property to Mr. Wright, except about £4000. to some poor relations. I know no other way to account for a man of reputation, character, and irreproachable morals, and having been at the head of a most respectable establishment, leaving his property to a friend whom he respected; there was also some property in freeholds, the amount of which does not appear.

He seems to have lived a life of generosity, but at all events, money could not have been his god. He retires with a handsome property into the country, and places himself near to where Wright and Marsden resided; he gives that account of himself in the evidence which has been read to you, and which I do not repeat. "Notwithstanding all this," says my friend, "I charge him with having entered into a most abominable conspiracy;" and if, gentlemen, the story be true as they tell it, then I must say, it is one of the blackest, and most enormous crimes that an individual, situated as he was, could have committed. It does not appear that he could have been induced to participate in it, from being situated in any moment of temptation; he himself could not have expected to survive either Marsden or Wright; he had no ambition to gratify—no child to provide for—and no relations that he was not sufficiently able to assist. You may easily conceive, that he would have been rather disposed to retire into that state of comparative poverty, than to believe in that which is stated; that for some reason or other, he thought proper to lend himself to one of the foulest crimes that could be conceived to be committed by any one in cold blood! Was he to render himself miserable and wretched for the rest of his life, by entering into such an unmeaning conspiracy, in so far as regarded

himself? Can you suppose, that when nearer the close of his life, he should dare to put his seal to a solemn oath by which he was to perjure himself in the court at York? If such a proposition can be entertained, I would ask, what transactions of men, or what verdict, can be safe? If, upon those suggestions of my friend, you are to find upon these scraps of paper, and that sort of evidence he has produced; if you are to find Wright, who is still living, and Bleasdale, who has not long been dead, guilty of one of the most atrocious crimes that ever appeared in the shape of misdemeanor, it should call for the most severe punishment upon those who yet survive such an atrocious conspiracy. Now, that Bleasdale is dead, if Wright were to be indicted for the crime—if we had been in a criminal court, upon such a charge, can you say that a man's life, and all his property, should not be in peril under such circumstances?

But, gentlemen, there are one or two other matters I cannot help glancing at for a moment. Mr. Wright is supposed to have exercised personal authority, or even personal chastisement towards Marsden. We have it, however, on the contrary, proved not only by our witnesses, but by their own, that his conduct was kind and feeling towards him and every one, although austere and rigid in his authority over those he was employing. It appears upon the depositions that have been read to you, as well as by the parole evidence, it has been shewn, that he treated Mr. Marsden as one gentleman would treat another. There appears, upon this part of the subject, to have been some confusion in the camp; for although it be said by some of their own witnesses, that Wright spoke to Marsden as one gentleman would speak to another, yet it is still alleged, there is evidence even of conspiracy. If that be so, I will call your attention to the evidence of Thomas Procter, who has been examined before you; he was particularly examined at York, for the purpose of proving Mr. Wright's harshness and control over Mr. Marsden; but mark what they endeavour to prove upon that part of the case! He comes here upon this occasion, and says, "I remember being at Hornby Castle at a sheep-shearing—Mr. Lister was there, and Mr. Wright also; we were making merry, and Thomas Waller came in. There was a knock at the door—Wright asked "who was there?" Waller replied, "Mr. Marsden." Wright then said, "what does the fool want?" Waller said, "he wants to come in amongst us." Wright then said, "let him go away." Upon this, Mr. Lister asked him to let him come in. He was accordingly brought in by Waller; and in a short time he began to sing, till Wright flogged him." He also tells you, "I remember in the year 1801, a boundary riding at Hornby; I carried the colour the first day; I remember William Edmondson, the lord of Outhwaite, being there in the evening; we returned to Hornby Castle, and there was a roll to be signed;





it was a little after nine o'clock, and Wright sent for Marsden, but he would not come, upon this Wright said, "I will fetch him;" accordingly he went, and with his whip in his hand, and shortly after that, Wright returned with Marsden; I heard Marsden cry out like a child." Did he? How can you deal with an alleged fact like this? If the man had been born in Ireland, and had never been in a civilized country before, or had never been at Lancaster till he came to give his evidence, and had told such a story, then you would know how to appreciate it, and then there would be an end of it; but here you are to be served up with a dish of perjury by wholesale, and it is only from a certain quarter such as this, that you can get it! Unfortunately there is enough of it at all times. It happens upon this occasion that I can furnish you with an instance which occurred within my own knowledge upon this very circuit. I mean in the case of Hodson, which occurred in Yorkshire; and I merely mention it as a matter of history, in the same manner, as the case of Lord Portsmouth has been mentioned by my learned friend. That the case of this man comes in, as it were, as a *bonne bouche* the next morning after my friend has given such evidence as that which I have just now stated. That was the case of an old soldier, who was said afterwards to have acted in the capacity of an attorney at Beverley, and was indicted for perjury, in relation to the execution of the will of a Mr. Stevenson in favour of Dr. Turnbull. These parties concerned in it were indicted for a conspiracy, and his evidence was given on that occasion, and in consequence of his evidence the party accused were found guilty. That man Hodson was prosecuted at the last assizes at York for the perjury he committed. He was present for the purpose of conducting his own defence, but he had no defence at all—on the contrary, he admitted his guilt in the outset, but it was thought proper to persevere in corroborating the proof of it. He came forward with tears in his eyes, and with every mark of contrition and repentance; he acknowledged his guilt,—nay, further, at the end of every statement uttered by a witness in confirmation of it, he, with a melancholy contrition which I shall never forget, said, "My lord, I am sorry to say it is all true." This he invariably repeated again and again, both during the examination and at the conclusion of every piece of evidence adduced. The result was, as a matter of course, that he was found guilty, and my Lord Lyndhurst, in passing sentence, gave him the highest punishment which the law could inflict for such an offence, namely, to be transported beyond the seas for life. That person appeared to be only a simple individual whom the others had selected while they were playing other parts in the case. Much art was displayed in that conspiracy altogether; but when it was proved that one man in that conspiracy had failed in his story, by its turning out to be the most wicked falsehood possible, I ask you what was to become of the public opinion in regard to the

residue of the evidence? So, gentlemen, I say in this case, how am I to deal with some parts of such evidence as has been given to you? I asked Procter, "did you state this at the trial of the issue at York—did you know it when you were at York?" His answer is this, "Yes, I believe I did." "Then why did you not state it?" His answer is, "I was not asked the question." Can you believe that such a witness as that was not examined by Mr. Higgin as to that as well as to other facts; and yet they did not venture to touch upon this particular part of the subject at York. Whoever examined him there, did not think it safe to risk such an inquiry, and yet at the end of four years and a half, they think proper to bring him forward to these assizes at Lancaster, and to get him to state these additional facts to his former evidence. This reminds me of a Yorkshire story, where it was asked, "does the case stick any where? tell me, and I will soon cure it!" Gentlemen, does not this tend to shew the danger that juries are placed in of receiving false evidence? If a real fact be merely exaggerated and brought forward, it may be detected; but if a perjured witness state that which is totally unfounded, although we find we cannot rely upon it, yet not having any evidence to counteract it, we must leave that part of the subject untouched.

Now, gentlemen, there was some other part of the evidence, in which allusion was made to a circumstance which I may here touch upon. That was in the evidence, I think, of Joseph Hetherington. It related to his having been employed to repair some water-closets at Hornby Castle in the year 1811 or 1812; he said he was at work for twelve days, during which he frequently saw Mr. Wright; that the cistern was in an unfinished state when Marsden came to try it; that there was a closet on the floor above, and on the floor below; when Wright had tried the one below, he went up above, and that Marsden having seen the experiment of the water rushing in, lifted up the handle during Wright's absence, and being diverted with the water turning round, he put a piece of paper into it and drew up the handle, as he had seen done before, and was much diverted with seeing the paper turn round." What does all this come to? Does it show any incapacity or imbecility? I wish, gentlemen, you only saw, as I have seen, how some of the learned barristers, when they are travelling together, or walking out when upon the circuit, amuse themselves with tearing up pieces of paper, and throwing them over the bridge into the stream, to see how it carries them down. I have even seen them amuse themselves more childishly in travelling in a post chaise. I have known them make bets in a rainy day upon two drops of water making their progress down the glass, in regard to which of them shall first reach a certain point. That, you would say, was a childish amusement; but from that you may judge of what sort of trash this evidence is composed. As to water-closets in houses,







you will recollect that that useful apparatus was not common in the north of England in those days, and, certainly, Marsden might not then have knowledge in hydrostatics ; there is nothing, therefore very remarkable in that circumstance so stated by the witness Hetherington. It was certainly a novel thing for Marsden or any one in those times to see the water rush in and go round as it does by drawing up the handle ; but there is nothing to be inferred from that, of the nature alluded to, nor can it be said that Marsden was not fit to make his will, merely because he derived a momentary entertainment from seeing pieces of paper turning round in the water.

Gentlemen, I may now touch upon some other matters detailed in the evidence that has been called on the other side ; or, in the first place, as to persons that have not been called by them. Amongst those, there is one that cannot have escaped your notice, at least it has not escaped mine. I mean my learned friend, Mr. Greene Bradley, the master of that establishment, of which Mrs. Greene Bradley is the amiable and accomplished mistress. Mr. Bradley, as I perceived, has been present during all this investigation, and yet he has not been called as a witness. Mrs. Bradley, however, has been called to depose to some circumstances which she has detailed, from which she has formed that opinion which she gave. Gentlemen, I assure you, that nothing could come from that lady that would not be highly respectable in point of talent, and perfectly consistent with her own conviction of the truth. Nothing could come from her, according to my own knowledge of her, that would not prove to be an answer, having the character of talent and cleverness about it. From what I know of her, in point of friendship, she possesses all that is amiable and worthy ; but, still, I cannot help thinking, that if the family were to be divided, in regard to giving evidence, upon this subject, I would much rather have seen the gentleman, than the lady, to give evidence upon the competency of Marsden. I mean no disparagement to Mrs. Bradley's evidence. She first states some facts before coming to her opinion. She says she thought Marsden was a gentleman of the old school, and she is pleased to call his politeness, a sort of "*silly politeness*," she being the only person who attaches an epithet of contempt in speaking of his polished manners. That was thrown in after my cross-examination of that lady. There were also one or two remarks made by her, as to the event she mentioned, which I thought evinced rather too much of a partisan. You, gentlemen, cannot forget that there seemed to be a little painting to that, as was observed in the case of an error upon a letter. On this lady's cross-examination I got out this, "that about five years before Mr. Marsden's death, and when he was quite an old man, he came in his gig alone and paid an accustomed visit of ceremony, such as are sometimes paid by gentlemen in the neighbourhood, and especially by those who are

well aware of the hospitality of the house of Mr. Greene Bradley. On that occasion Wright was not with him, but he is alone in his gig, having his servant behind him, I dare say. On that occasion he pays Mr. Bradley a forenoon visit of an hour. Now, I dare say, to a lady of Mrs. Bradley's sprightliness, that was rather a dull hour, and perhaps she may have rather entertained a little spite at him for that visit; but I should have liked to know what passed during all that hour, and whether he were coldly received or not, on account of any apparent imbecility or foolishness. If she had discovered that Marsden was a connate imbecile, according to Dr. Cookson's theory, or according to what Mr. Nowell calls a downright fool, it is not very likely that a lady of such accomplishments, as Mrs. Greene Bradley avowedly is, would have invited him to meet others to dine at their hospitable mansion, nor that she and her husband would have gone to visit him at Hornby Castle, for, certainly, if I recollect right, not long before he died, there comes an invitation from Hornby Castle, and he spoke of it to her as "my castle,"—"my honor of Hornby,"—or, as "my property." They go, and they are there entertained in a manner which, I have no doubt, was most satisfactory to all parties, and when Mr. Bradley and his fair partner were about to return home, they invited Marsden to return the visit, and come and dine with them. Gentlemen, these are facts which ought to go for something: I ask you, are they worth nothing? Are we to take it, that Mr. Bradley and his wife were some how or other drawn into this whirlpool of conspiracy, which Sir James Scarlett has spoken of as being so extensive as almost to include every body? Ridiculous!! Mr. and Mrs. Greene Bradley received him kindly and hospitably—of that I have no doubt, but Mrs. Bradley talked of Wright's incivility that was shewn, when Marsden had offered Mrs. Bradley some plants, in saying, "indeed he ought not to give away the plants—they are not his to give!" Was that the only instance in which Marsden had shewn his civility and sagacity? She says, that on one occasion she attempted to engage him in conversation, and asked him if he had ever been in London, and upon that he answered, that he had been in London, and had been at the theatre, and he repeatedly said, "I have seen the King and Queen." You will observe, gentlemen, that this is now about thirteen years ago; Mrs. Greene Bradley was then very young, and I am sure she will take in good part anything I have said, and will not take it amiss my saying she was then young, it being thirteen years ago. She may not perfectly recollect all the circumstances of that conversation, that she may have expressed her surprise, and may have said, "what—have you been to London, and to the theatre too?"—"Yes;" says he, "and I saw the King and Queen too—what think you of that—I saw the King and Queen!" What then are you to infer? That would be at least two repetitions of his first





statement that he had seen the King and Queen. She might then again have expressed her surprise, and said, "What! you so near sighted, go to the theatre!" and he might have replied, "Yes; ma'am, and not only went to the theatre, but I saw the King and Queen!" That would have been no less than three repetitions. Their conversation might perhaps indeed have been still further protracted, and she might have said, "I wish I had had the opportunity of being with you, as I never have seen the King and Queen." "Yes, ma'am, I should have been very happy to have had your company, and to have pointed out to you the King and Queen." "What did you see performed?" "I saw so and so performed, but besides that, it was well worth while to go to the theatre to see the King and Queen." Thus, gentlemen, it seems to be a mere matter of recollection; and Mrs. Bradley may have forgot that it was her own fascinating conversation that led Mr. Marsden into all these repetitions as to the King and Queen. But, I ask you does it necessarily lead you to this conclusion which Mrs. Bradley now comes to, that Mr. Marsden was totally unfit to manage his own affairs? Certainly not. But gentlemen, you will give to these observations whatever weight you think they may be entitled to.

Then, again, as to the evidence of Miss Sheepshanks, a witness called on our side, my friend extracted from her powers of reasoning, that if mankind were divided into three classes, she would put Mr. Marsden in the third one; but even that degree of weakness does not display a want of the disposing power; with such a lady as that, perhaps, he shewed his sagacity in not daring to reason with her, nor with such a gentleman as Mr. Baron Bolland; but still to those persons he shewed no want of intellect;—no, not to one of the respectable witnesses we have called, nor, I would say, to any one witness down to the end of the cause. I only say thus much upon this part of the subject, as I am really afraid it has been a little too much broken in upon, so as to deprive Mr. Marsden even of the credit of being possessed of those social virtues and the charities of life which have been attributed to him here. The fact is, gentlemen, there has been too much party spirit displayed throughout this cause,—a great deal too much, and it is for that reason, I must say without the slightest disparagement to any body, whether gentle or simple, ladies or gentlemen living in the neighbourhood, who in their evidence, have been pressed rather too much to give an opinion of a gentleman, such as Marsden, without their having had those opportunities which our witnesses had, from their having (several of them at least) spent two or three months at a time in his company. Instead of such witnesses as ours, you have had such as Mr. Nowell, who says that for the last fifteen years he had not known Mr. Marsden; but yet it appears he did not know any thing of the history of his life, but merely by report. Gentlemen, days and weeks would fail to detail the slanders, if you were to listen to such rumours, when you hear a

gentlemen stating that he called upon him for the purpose (to use his own expression,) of walking him out, in order to have some conversation with him, to discover whether he were sane or a perfect fool. Why has not Mr. Bradley been called? would he have failed to have come forward as a witness, if he could have confirmed Mrs. Bradley's evidence, in so far as it relates to opinion? Would he have failed to come into the box to state that he had a knowledge of his uncle, Mr. Greene, the father of the member for Lancaster?—Would he not have recollected some circumstances relative to a gentleman of such high honour and integrity, whose station and character had placed him far above any suspicion of having been a co-conspirator in this business? Mr. Bradley might have said, "I cannot help what the opinion of the lady may have been upon the subject; I cannot go along with her in that opinion, nor can I suppose, from what I knew of my honoured and esteemed uncle, that such was his opinion. I cannot cast upon his memory any such reproach of having united with Barrow, with Wright, and with Bleasdale, in any sort of conspiracy, conducted, as it is alleged to have been, by drawing others into it merely by letters having been written. My uncle was of a cultivated mind; he was a man of too much honour to be drawn into any such plans, and he had too much knowledge of the world to be so deceived. Knowing from what I have seen myself of Mr. Marsden, I am convinced he was a man of sufficient capacity to know and understand what he was doing when he was executing this will. Although, perhaps, there may have been some neglect in his education, he certainly was fully competent to all the common affairs of life; he had a heart to feel, and a head to execute, so as to carry into effect his good intentions towards others he esteemed and regarded. To those who did not know him, his short-sightedness cast a shade upon him; but not so with others who were accustomed to his peculiar manner, his affability, and politeness; they were perfectly convinced of his sanity." Have I not a right, gentlemen, to say that that would have been the purport of the evidence of that gentleman, if he had been called; conceding to him every thing he may have felt as a friend, or as a husband; I cannot but imagine that such would have been his statement, knowing his accomplished lady but slightly, and knowing him intimately; I respect them both, but I cannot suppress these suspicions. I have a right to say, that as a gentleman Mr. Bradley must have been better able to judge of the capacity of Marsden, and to give evidence upon this occasion; or, if he had also been called, you might, if you had chosen, have put the evidence of Mr. Greene Bradley on one side, and have put that of Mrs. Greene Bradley on the other; and if so, I cannot help thinking that, upon that part of the account, the balance would have been in my favour. Gentlemen, I can only say, you cannot expect I should have called Mr. Greene Bradley, with the knowledge of what was heard to have passed between him and the other side; with Mr. Bradley we could not communicate.





trived it so cunningly, and dexterously, as to avail himself of every circumstance that could be afterwards brought forward, to confirm that which had been done in former times, even at the distance of half a century ; and, therefore, that no one was allowed to come near him, without making some observation of Marsden's sanity, or of corresponding with him so as to amount to declarations. My friend's case is, that Marsden could not write a letter, nor make a copy of it, nor receive letters from others, without their being turned to some account by the most refined artifice and deepest cunning, or the most consummate villany, from the beginning to the end of almost all Marsden's lifetime. His case is that Wright has got every body to assist him in this extraordinary scheme. If so, one would naturally say that Wright must not only be a very scheming, but a very discerning man : you cannot but come to the conclusion that Wright must be the most cunning and artful man under heaven, according to my friend's proposition. Now, gentlemen, is that so ? A few questions may solve it. Did Wright ever deny Marsden to any body ? Did Marsden ever deny himself to any body, whether he were in the presence of Wright or not ? Did any one ever call upon Marsden who declined doing business with him, or did Marsden ever decline to do so ?—Never. Was he ever prevented by Wright or any other person to go out alone ?—Never. And, as an instance to the contrary, I may allude again to the call he made upon Mrs. Greene Bradley to invite her and her husband to visit at the Castle. I may also instance the fact of his going to see a young lady with whom it is supposed he was in love ; that, I think, is mentioned by Miss Dorothy Butler, although she has been pleased to add that his politeness was such, in accosting the object of his regard, as to be perfectly ridiculous, by the number of the bows he made in approaching her. Has it not been plainly shewn to you that Mr. Wright himself was absent on many occasions when those letters which have been produced were written by Mr. Marsden ? He leaves him at Wennington, at Buxton, at Belle Hill, and even at the Castle, and goes to London ; “ but oh ! ” says my friend, “ that was all part of the scheme ; Wright merely goes to London that he might have an excuse to write to him, and that Marsden might write in reply.” If Wright were not at Belle Hill at the time Marsden was on a visit to Mr. Lister, and that he wrote from thence to Wright, how can Wright be said to be in a conspiracy ? Is it true ? What can be more inconsistent ? It is utterly a fallacious ground my friend proceeds upon in making such a charge. Can you believe that Wright, who was supposed to be conducting this scheme, was making every one a party to it who may have written any note or letter to Marsden, after having been on a visit to him ? Marsden was separated both from Bleasdale and Wright ; it was beyond possibility that any such scheme could succeed. Says my friend, “ this is all a trick ! ” Here is a letter that





was read to you before ; it is somewhat extraordinary, and I beg to call your attention to it again. It is written by Marsden at Belle Hill, and is dated the 23d of January, 1802, addressed to Mr. Wright, at Hornby Castle ; and it has the Settle post-mark upon it. He here says, “ Dear Sir,—I was favored with your letter by Mr. A. Lister,” (my unhappy client at this moment,) “ wherein you mention Mr. Baldwin’s calling upon you a few days ago, requesting you to let him have some papers respecting Heysham Hall estate. Those papers my brother gave to me some time before he died, and desired me not to part with them till Colonel Bayley or his heirs delivered up mine.” Says my friend, Sir James Scarlett, “ Wright told Marsden to write that letter ;” but then, if he could not write that letter, the question comes to be, could Mr. Wright have asked some agent to go to Belle Hill to dictate to him what he was to write, or can we suppose that Mr. Anthony Lister was himself to be a party to that deception ? If you can suppose that, then I should say there is no end of such suppositions. Says my friend, on other occasions, Wright was at London, while Marsden was at Belle Hill, or at Gargrave, or at Buxton. Undoubtedly he must be somewhere, as I cannot get him to write letters from the grave ; but such is my friend’s argument, and we will make all allowances for it ; “ still,” says he, “ it is all a scheme,” although it be so incredible, that nothing but the keenness of my learned friend’s advocacy, and his anxiety to throw a suspicion upon Wright so as ultimately to enable him to get your verdict, could have prompted him to state so monstrous a proposition.

Gentlemen, I have but a few words more to address to you. On our side it is to be remarked, that in the evidence adduced for the defendant, every gentleman who deposes to Mr. Marsden’s capacity, swears to having had personal communication, and of having intimate means of knowing Mr. Marsden. Now, on the other hand, although I do not deny that Dr. Lingard may have formed his opinion, with perfect integrity of purpose, and the most pure honesty, yet, if Mr. Lushington’s statement be untrue, it must utterly disgrace him as a member of society. Upon that point I may observe that Dr. Lingard, who has dined there, may say, that as to these letters before the court, “ I am not very particular where I dined, nor whether I dined with a fool or a wise man. I am not very nice about that. I may have made a mistake as to going there, but I know he had a dislike to my profession and my tenets.” But there is no escape for Mr. Lushington, he is a man of education and intelligence, and upon his judgment of Marsden’s competency to understand he could not be mistaken. Mr. Nowell may have taken Marsden to be a fool, but yet Mr. Lushington could not honestly have taken him for that which he did not think he was. Under these circumstances I scarcely see how it is possible to reconcile the evidence on the other side, with that of Mr. Baron

Bolland, a gentleman, who for learning and for intelligence is one of the highest order, and what is above all, he is a gentleman endued with the warmest charities of human life: it is well known, Mr. Baron Bolland stands surpassed by no one. I almost tremble when I put the alternative, but I cannot conceive him staying at Hornby Castle for thirty-three days, and walking out with Marsden and conversing with him, and sending a poem to him sometime afterwards, how can you reconcile that with what those others have conceived him to be? There are three or four other gentlemen whom I shall mention; for instance, there is Mr. Birkbeck, a person of the highest honour and intelligence; he speaks, as to being perfectly convinced, in his mind, that he knew he had a large property, and was capable of knowing and distinguishing who ought to be the objects of his favour and affection. Let us remember what those persons have stated of Marsden who had known him intimately, and known him better than those who only saw him upon a mere glance; and that it required frequent intercourse with him before you could get acquainted with his real state of mind and capacity, and his real feelings and mode of thinking, and let me ask you whether this does not clearly appear in the course of the cause, and that there is nothing to be collected from that which is mere rubbish, as every witness who knew him the most, speaks the better of him. Take, for instance, Mr. Sharp. I do not see how (and I am sorry to say so), how even that gentleman can escape being reckoned one of the conspirators with Bleasdale and Wright, if my friend's story were to hold good. That gentleman, Mr. Sharp, must share the infamy of that alleged conspiracy, if Mr. Marsden were not competent to make a will. It is certain that Marsden did appear to strangers to great disadvantage, as he was near sighted, and that he did not know his most intimate friend till he were within a short distance; but when he did recognize him, then he would advance suddenly, and seize him by the hand. Mr. Sharp is a gentleman probably not known to many of you, but he does fill in this town an office of great respectability, which places him in communication with persons even in the highest rank and condition of life. He fills a situation of extreme confidence and honour. That gentleman has deposed to an intimacy of twenty years' duration with Marsden, and he says, in substance, that he would pledge his honour and life that Marsden was competent to make this will. I see no escape from this. This is a fearful enquiry, and a precarious ground for Admiral Tatham to put it upon. I ask you if you can suppose such a gentleman as Mr. Sharp could defame himself and be guilty of such a deed of dishonour? To what a frightful consequence a verdict for the plaintiff may tend, instead of finding, according to the weight of evidence, my friend's case wrong in point of fact! I anticipate no such result as that of a verdict against my client.

Before I conclude my observations, I may admit that Mr. Mars-







den's deficiency arose, not from a want of intellect, (which may not have been so powerful as in many other individuals,) but it may have arisen from a want of proper care in his early instruction, which rendered subsequent education almost unavailable. Gentlemen, I am far from disparaging those advantages which are to be attributable to education, which was once more worth to myself than all I possessed in the world. I would have every man blessed with the opportunity of cultivating his mind to the fullest extent which the bountiful Giver of all things has bestowed, and has enabled him to do; but if there be any one species of tyranny I could abhor in the aristocracy of a country, or in wealth or station, or in family distinctions, it would be a dislike of what may be called the tyranny of talent, and insolent aristocratical assumption of some supposed intellectual pre-eminence which is discoverable in the minds of some men towards others. We are taught our first principles of religion, and I hope the day will never come that you may not speak in a Christian land as it becomes a Christian to speak of our religion; and I am as yet not now looking at those distinctions which my friend, in an evil hour, pointed out as against your belief of what Mr. Birkbeck has stated; but I believe it will do him no good, nor Mr. Birkbeck any harm. That religion which we profess teaches us the levelling of all distinctions; it teaches us charity towards all descriptions of human beings before our common Father,—our common God,—our all-powerful Creator; it places every man upon a footing of just equality, and if there be one peculiar crime against which that sacred religion is directed, it is against the haughty and proud spirit,—it is the insolent tyranny of talent, or the affectation of superiority, because one may have, forsooth, five talents instead of one. Gentlemen, it is to the poor in mind or of intellectual attainments that the gospel is preached, for they, of course, stand most in need of its beneficial effects; but it is not so much to the haughty and to the arrogant; it is to be directed to the poor and contrite in spirit, and those who tremble at the word of God.

Gentlemen, I ask you, do you think that Mr. Marsden who regularly attended, with the other branches of the family, in the house of God, as we have heard, and who not only zealously participated in the ordinary rites of religion, but was received at the sacrament table of the Lord.—I ask, do you think that any man, (and I would say that, even if Mr. Nowell be right when he denominated him a fool, or one who had no mind, and also Dr. Ambrose Cookson who stated that he was a connate imbecile,) do you think that any clergyman would have ventured to have made himself a party to this supposed conspiracy, so as to admit such an individual to partake of the holy sacrament? We have it in the evidence of one reverend gentleman that he was a constant partaker of the holy communion; and another witness states that he administered to him from year to year the divine sacrament. Now, if it were supposed

that he was that degraded being, that had neither head nor feeling, who had none of the common passions of mankind, nor brotherly love, nor free-will, so as to be able to dispose of his property according to his own inclinations—think you, gentlemen, that any clergyman would have administered those solemn acts,—think you, that if Mr. Marsden had been the fool that Mr. Nowell tells you he was, we should have had so many attestations, not only of the dead, as to his sanity of mind, but of the living? As to the latter, I may allude to the evidence of Baron Bolland and other witnesses, who have appeared in that box, attesting upon their solemn oaths to the same effect.

Gentlemen, think you that if Mr. Marsden had been totally deprived of the power of bequeathing, or choosing, or directing, from time to time, that his property should be left to those who loved him best, do you believe that medical men and other intelligent gentlemen, who intimately knew him, would have been regularly attesting his various wills?

Gentlemen—I hardly know how you feel upon this subject; but I own, at the close of this, my address to you in reply, I feel some of that deep responsibility, which nearly overpowers me as I was turning round to address you. I cannot think of the tremendous and perilous consequences, in point of stake, and in point of character to so many persons, some of whom have passed away with honour and credit, while others still exist, without my feeling the greatest anxiety in regard to your verdict. When we find that so many individuals attesting the acts of Marsden, and thereby giving evidence of his acts, and attesting the truth of the whole story; I feel I cannot think any otherwise of that responsibility which I cast upon. I must naturally entertain the most anxious feeling upon the subject, and with which I should scarcely be able to bear myself up, were it not in the entire confidence and persuasion that I have, that your verdict will prevent any title being shaken, and will restore tranquillity to any one who has had a doubt about it; or rather that it will purge from any stain of suspicion, the hundreds of persons who are supposed to have been implicated in this foul conspiracy. That your verdict will be a satisfactory one, I must heartily pray to God—that it will be a just one, I cannot entertain a doubt.

Gentlemen—it is for you to say how it is to be; my confidence in this, as it were in my own cause, is of no sort of importance; but I may be merely allowed to say, that I have conducted the whole of this case, from the beginning to the end of it, in the true spirit of prayer, that may God enable you, gentlemen, to do justice between these parties.

At a quarter after six P. M., the court adjourned till ten o'clock next day.





## MR. BARON GURNEY'S SUMMING UP.

TENTH DAY.

*September 3rd, 1834.*

MR. BARON GURNEY.—Gentlemen of the Jury—This great cause has now arrived at that stage when it becomes my duty to give you the best assistance in my power towards forming your judgment upon the evidence which has been submitted to you, by the conflicting parties in this suit.

The case is for its length I believe unexampled in this form of trial, in the history of English Jurisprudence. Indeed, the subject matter of the inquiry is of so extensive a nature, as to render it impossible that the testimony upon which it is to be decided, should be brought within any ordinary limits. It relates to the soundness of mind of a person who lived to an advanced age, and who went to his grave with his acts unquestioned,—and that, not during a small portion of his life, but through all his years from childhood to old age.

The particular question which you are to decide is, whether the will which purports to be the will of Mr. Marsden, and which was made four years prior to his death, is, or is not, the will of a person competent to make one.

By the law of England, if a man be possessed of an estate, unshackled by previous settlement, he may dispose of it by will. The abuse of that power will not invalidate the act. Should he disinherit a worthy son, and prefer an unworthy stranger, even that disposition cannot be set aside. If in that solemn act of his life, he has committed injustice, he is left to the judgment of a future and higher tribunal. We may, in particular instances, lament the abuse of the power, but the power is given, and I believe wisely given, by the law. In conceding such a right, it proceeds upon a knowledge of human nature, and a correct acquaintance with the springs of human action. As the wealth and prosperity of the State are augmented by the prosperity of individuals, it is wise to give a stimulus to activity, enterprize, frugality, and accumulation. The desire of dominion over property is very strong, it is therefore a powerful incentive to its acquirement. Man is desirous of possessing that dominion, not only while he lives, but of perpetuating it, and of transmitting to future times the impress of his existence and his power. This the law permits under certain restrictions.

For the purpose of guarding against fraud, the law requires the observance of certain formalities—in the case of a will devising real property, the attestation of three witnesses. No question of form arises in this case—it is not alleged that there was any omission or irregularity, in the execution of the will.

The question before you is of a higher and more important nature—Whether Mr. Marsden possessed a mind to direct and to understand what was done? without which, the signing and sealing are but unmeaning ceremonies.

This observation has been made repeatedly in the course of the cause, and certainly it should never be lost sight of, that we are trying this question in a mode not the most favourable for the purposes of justice—that is to say, we are trying it, when the gentleman, whose competency of mind is the subject of inquiry, is no longer living; and cannot therefore, be subjected to that personal examination, which would be the most satisfactory mode of eliciting the truth.

The learned counsel for the lessor of the plaintiff, (whom, for convenience, I will call the plaintiff,) has correctly stated, that there are two questions for your consideration :

First, whether Mr. Marsden had, or had not, a mind competent to make a will.

If he had, then, second, whether he made this will under the control, influence, and dictation of Mr. Wright.

Upon the first point it is unnecessary to say, that the question is, not whether Mr. Marsden had a mind above the average of mankind; because, then, comparatively a small portion of mankind would have the power of disposing of their property. It is not even whether he were of a capacity which made him equal to the average; his mind might be below that of the average of mankind, and yet he might be competent to the disposal of his property by a will. It would be too much to say, that all those whose minds come not up to the average standard of intelligence, should be disqualified from making a will.

In order to give validity to this will, I think first, that you must be of opinion, that Mr. Marsden was conscious of his situation, as a gentleman possessed of property, and that he had a mind and understanding competent to select those who should be the objects either of his justice or his bounty.

Upon the second point,—that of influence and control; it has been laid down by the highest authorities, that if a will be to be invalidated on that ground, it must be such influence and control as leaves the testator without free agency.

I am therefore of opinion, that it will not be in your power to set aside this will on account of the influence or control of Mr. Wright, unless you find an influence and control which prevented Mr. Marsden from being a free agent.

Having thus, gentlemen, stated the questions for your consideration, I will proceed to take a general view of the evidence by which the case of each party is supported.

The mass of evidence which has been given is very great. If I were to detain you by reading my notes, from the beginning to the end, I think that I should weary you, without giving you the assistance which you have a right to expect from me. I have observed the close and unremitting attention which you have given to the evidence, and it appears to me that the best course that I can take will be, to present to you a general view of the evidence on the one side and on the other; calling your attention more particularly to those parts which require especial consideration.

The defendant, having first admitted the right of the plaintiff to recover, unless he shall establish the will, introduced his case in favour of the will by the evidence of Mr. Wilson, an attorney, who went to school with Mr. Marsden,—who was, a few years after, recognized by him as an old school-fellow when they met in the office of the attorney, with whom he was there a clerk,—who was invited to go to London with him in his carriage, and







who appears to have continued his acquaintance with him down to the close of his life. He states very distinctly his opinion that Mr. Marsden had a mind competent to make a will.

Colonel Lushington and Mr. William Lushington, (nephews of the Bishop of Bath and Wells, and of the late Lord Ellenborough,) both gentlemen of consideration, and, as you must have perceived, gentlemen of education, and possessing well-informed minds, have been called.

The Colonel states that he visited Mr. Marsden on one occasion only, but it was a visit of some length; and he gives an account of playing pieces of music with Mr. Marsden,—trying the easy trios of Correlli, and playing the duets of Schwindell. He admits that Mr. Marsden was peculiarly fond of the tune of “Dainty Davie,” and played it more frequently than any other. His evidence is positive as to the fact of his playing in the manner he describes; he associated with him day after day, and he speaks to the competence of Mr. Marsden’s understanding to the making of a will. He, and indeed every witness, speaks of Mr. Marsden’s mind as weak; indeed, if his mind had been strong, this question never could have arisen.

You have next the evidence of Mr. William Lushington, his brother, who knew Mr. Marsden much more intimately than the Colonel; he gives an account of many visits which he paid him at Hornby Castle, in the course, I think, of eight or nine years. The visits were some short, others long; one of them extending to the period of three months. You have from him the fact, as distinctly as from his brother, of Mr. Marsden playing on the violin. He says that Mr. Marsden was but a bad timeist, yet he shewed a knowledge of music to be acquired only by notes.

Mr. Lushington, too, speaks to the competency of Mr. Marsden’s understanding.

Mr. Baron Bolland was introduced to Mr. Marsden by Mr. Lushington and the late Mr. Townley Clarkson, whose deposition I ought to have referred to before, because he had a long and intimate acquaintance with Mr. Marsden, and spent a considerable part of his vacations at Hornby Castle. Mr. Baron Bolland visited Mr. Marsden, and remained in his house thirty-three days; occasionally amusing himself with shooting, fishing, &c.; but breakfasting, dining, and spending every evening in his company; occasionally walking out with him—of course, daily conversing with him. Mr. Baron Bolland has told you that he has no doubt whatever of his competency to make a will. Inquiries were made, both of Mr. Lushington and Mr. Baron Bolland, whether they had conversed with Mr. Marsden on subjects of morals, science, or literature, so as to ascertain more completely the soundness of his mind; they all say that they did not. They speak of his education having been neglected; they say that the conversation was confined to the news and the topics of the day (which I believe, constitute a part of the conversation of us all), but they formed their judgment from his conversation, manners, and deportment.

You find from some of the witnesses, that Mr. Marsden was in the habit of reading the newspapers, and conversing on what he had been reading.

Now, you are to judge as to this:—If you hear a man read a paragraph in a newspaper, you may be unable to decide whether he understands it or not, but if he afterwards talks of what he has read, you have the means of arriving at that decision.

It is for you to decide, whether the opportunities which those witnesses

had, were such as enabled them to form a correct judgment of Mr. Marsden's capacity.

Messrs. Lushington and Mr. Baron Bolland, are all speaking of a period remote from the time at which we are engaged in this inquiry. Mr. Baron Bolland, as far back as 1799; Colonel Lushington, 1803; Mr. William Lushington, covering a period of about eleven or twelve years.

The evidence of Mr. Bradshaw is material, because he appears to have been acquainted with Mr. Marsden during the whole of his life—they were boys together. He speaks of an incident which was likely to attach the one to the other; their being overset in a boat, when they were boys, and he saved the life of Mr. Marsden. According to the statement of Mr. Bradshaw, their acquaintance continued down to the time of Mr. Marsden's death, and he speaks to the competency of Mr. Marsden's mind, and also to particular declarations of his intention towards Mr. Lister and Mr. Wright.

I will read to you the evidence of two or three of these witnesses at length; and shall do the same with the evidence of some of the witnesses for the plaintiff.

First I will read the evidence of Mr. Townley Clarkson, which was taken by the commissioners, under the bill filed in the Court of Chancery.

[The learned Baron read the deposition of the Reverend Townley Clarkson, given at page 149.]

I would here make one observation which applies to many parts of this case. Most of you, gentlemen, I believe, are engaged in manufactures, or in commerce. You are not to expect that a country gentleman manages his affairs as you do—that he looks after them, as you attend to your manufactures or your counting-house. He leaves a great deal to his steward—the steward lets the farms—the steward receives the rents—the steward directs repairs—and it will not follow, because a gentleman does not personally attend to these things, that therefore he can have no mind or understanding—especially if you find him to be, as Mr. Marsden certainly was, a person of inferior understanding, and no experience. On the other hand, you would certainly expect to find a much more intimate acquaintance with his property than you have found in this case. You would expect a gentleman to take much more interest in his property than Mr. Marsden appears to have done. We have no account whatever of his having ever visited any of his farms, or of having evinced any interest respecting them. There is that in property which generally endears it to its owner, and makes it the object of his attention.

This observation is material, when you come to consider the evidence of some of the servants.

With regard to field sports, we learn that early in life he went out with his hounds; but after an unfortunate event, which, you will remember, was spoken to by one of the witnesses for the plaintiff whose deposition was read, he ceased to ride any but aged and quiet horses.

It seems that Mr. Wright was a good carver; that Mr. Marsden's sight was imperfect—that he could not carve—that Mr. Wright sat at the bottom of the table during dinner,—and that when dinner was over, Mr. Wright moved, Mr. Marsden took his place, and passed the wine.

Having read the deposition of Mr. Clarkson, I will now resume the evidence of Mr. Baron Bolland. He says, "I was at Hornby Castle in 1799; I think I was there about thirty-three days in all. I was never there on any other occasion; I was introduced by Mr. William Lushington and





**Mr. Townley Clarkson.** I dined with Mr. Marsden every day, and was a portion of every day with him, particularly when the weather was wet. I know that some days I did not go out, but spent the days at home—I should say several. We all breakfasted together and dined together.

“ Mr. Marsden entertained several persons who came and stopped a day or two, and others dined and went away in the evening,—gentlemen from Lancaster. On one occasion a considerable number dined; the party was sixteen or seventeen. I saw the Messrs. Worswick there; Mr. Baldwin, the solicitor, was there.

“ I have had frequent opportunities of conversing with Mr. Marsden, and have walked with him about his grounds. He has conversed with me about his improvements; there was a little hill over the Wenning, where I recollect they were making improvements; he said they were, and they were planting the hill at the time; he took part in the conversation at dinner. His manners were those of a gentleman—extremely polite and courteous,—very hospitable,—very attentive to his guests.

“ I have never heard him play on the violin; I was never in the music-room. I heard playing there; whether good or bad I cannot say; I took no interest in it. I have a recollection of dining with Mr. Baldwin; I do not remember whether Mr. Marsden was there. I remember the dining with him, because it was my birth-day, but I believe I came then from Heysham with the Clarksons.

“ I had the opportunities which thirty-three days afforded me,—taking out the days on which I might be shooting on the moors, which was not very often, or fishing in the Lune or the Wenning. There were many days wet when I could do neither, and days, though not wet, unfavourable for sport, and I remained at home.

“ I conversed with Mr. Marsden; he did not appear to be a well-educated man, or a strong-minded man; he appeared to be a person competent to make a will; I have no doubt of it; I would not have hesitated for a moment to attest the execution of his will. I never had a doubt cross my mind upon that point.

“ I saw much of Mr. Wright; I think that he was there every day that I was there, except private business might call him away, so that he did not dine with us; but I do not recollect that that happened very often. Mr. Wright's manners were not abrupt to those that I saw in the house; I should say that to inferiors he was abrupt in his manner. I have seen Mr. Marsden in the absence of Mr. Wright, and I have seen them together. I never saw any difference in Mr. Marsden, whether Mr. Wright was there or not; Mr. Wright always behaved respectfully to Mr. Marsden, and as one gentleman would to another.

“ I cannot charge my memory with any particular conversation with Mr. Marsden about Mr. Wright, but the impression on my mind is, that he represented to me that he was indebted to Mr. Wright for buying the estate, in the first instance, and for managing it; he appeared to be sensible of that.

[A letter shewn to Mr. Baron Bolland.]

“ After I left Hornby Castle, I addressed this letter to him; I sent him a copy of a volume of poems which I published; I would not have done that if I had thought him a person incapable of understanding them.

He conducted himself as the master of the house,—as a gentleman at the head of the family; the management was chiefly in Mrs. Wright and Mr.

Wright. I do not know that I ever saw him interfere with ordering dinner ; in a house of that sort it comes usually without the guests knowing any thing about it. I never saw any want of propriety in Mr. Marsden's conduct. There was a Miss Tatham in the family, I think ; I remember her well, and could have known her no where but there ; how long she was there I do not know.

"The impression on my mind, from Mr. Marsden's conversation about Mr. Lister (Anthony Lister, as we then called him), was, that he was particularly attached to him.

"On the 11th of August, he talked, during the whole of the morning, of Anthony coming that evening ; he remarked, 'now Anthony is cleaning his gun.' His manner shewed that Anthony was a great favourite ; he came in the evening, and Mr. Marsden received him with affection, and appeared to be much attached to him. Mr. Marsden appeared to me to understand the relation in society in which he stood, and to be capable of selecting the persons who should inherit his property."

In his cross-examination, Mr. Baron Bolland says, "in the volume which I sent to Mr. Marsden, there was a prize poem at Cambridge ; I was not then at the bar ; I had taken my degree at Cambridge in 1794. I had not talked to Mr. Marsden upon the subject of the poem ; the poem was partly written there ; I sent it, I think, the year afterwards. There was nothing in the conversation that I remember which led me to know that he would understand the poem, but there was nothing that led me to think that he would not ; it was the Seaton prize poem ; I think the subject was Paul at Athens. I was successful more than once. I had no conversation with Mr. Marsden on literature, or any subject of science that I am aware of ; my conversation with him was that which would pass between a guest and a host, on the occurrences of the day. I was away once at Heysham, and came back ; I passed thirty-three days at Hornby ; I have no recollection of conversations with him on literature, morals, or science ; I never conversed with him with a view of trying the depth of his intellect ; I conversed with him upon the politics of the day, and the local politics of the neighbourhood ; further than that I did not probe his mind."

Upon his re-examination, Mr. Baron Bolland says, "he does not think that a knowledge of science, morals, or literature, is necessary to a competency to make a will, though conversations on those subjects would have enabled him to judge better of Mr. Marsden's intellect. He says that he formed the judgment which he has stated, from his conversation, manners, and deportment. Such is the evidence of Mr. Baron Bolland.

We had testimony of more length from Mr. Lushington, upon which there was a good deal of cross-examination. The witness and the learned Counsel who cross-examined him, did not quite agree upon the subject of music—which of the two gentlemen is superior to the other in that art, I will not pretend to determine. But we have the judgment of a gentleman of undoubted credit and respectability, as to the competency of the mind of Mr. Marsden.

There is also the evidence of several other witnesses, whom I need not enumerate, to the same point.

Three clergymen who knew him for a considerable time. Mr. Ridley, Rector of Heysham. Mr. Howson, who resided at Hornby for three years as assistant to Mr. Procter. Mr. Garnett, who was assistant curate of Hornby for three years, and who christened John Marsden Wright.

It appears to me that the observation which has been made by the







Counsel for the defendant is a correct one ; that in proportion to the extent of the knowledge of Mr. Marsden, and to the intimacy of the acquaintance which the witnesses had, the better opinion they formed of his understanding.

The evidence of Miss Sheepshanks is material. She knew Mr. Marsden well, and has spoken to his competency. She was cross-examined with great skill ; and if we are to arrange mankind in three classes, it is, I think, clear, that Miss Sheepshanks is not to be placed either in the second or the third ; she is a very sensible, as well as lady-like woman. She had more knowledge of Mr. Marsden than most of the witnesses could possibly have had ; she was in the habit of meeting him, year after year, for many years, at the house of Mr. Lister, and lived in the house with him for weeks together ; she places his understanding in an inferior rank, but still she thinks that he was fully competent to make a will. She mentions that which I own struck me very much, that he lamented his own want of education ; he wished Mr. Lister to send his son to a public school, and to educate him for the bar, giving this reason, that that would fit him for the management of his own estate, and for the duties of a magistrate. This, certainly, is unlike the language of a connate imbecile ; it is the language of a man who can combine ideas, and form a sound judgment. This was Mr. Marsden's observation upon the education and destination of a youth, in whom he appears to have taken a peculiar interest, and to whom, independent of the relationship by blood, he stood in the relation of godfather.

He appears also to have reminded Miss Sheepshanks of her obligations as his godmother, to afford him some religious instruction.

You have then the evidence of some gentlemen of the medical profession ; one who attended Mr. Wright's family at Heysham, and two who attended at Hornby Castle ; particularly the evidence of Mr. Batty, who attended Mr. Marsden, professionally, for many years.

It appears that the gentleman who had attended Mr. Marsden prior to Mr. Batty, was the late Mr. Bickersteth, who has been spoken of as a man of great respectability, who visited at his house, and was a witness to some of his former wills.

Mr. Batty attended Mr. Marsden from 1808, until his death, a period of eighteen years. He speaks of the intercourse which he had with him upon various subjects on which conversation turns, and also particularly with reference to the communications which he received from him in his medical capacity ; and I think that he speaks to the competency of his mind and understanding, as strongly as any one of the witnesses in the cause.

Whatever may be said of other witnesses, I think that Mr. Batty, Mr. Bradshaw, Mr. Sharp, and Mr. Bleasdale stand in a peculiar situation. Other witnesses, on either side, may be mistaken—they cannot. It is utterly impossible that Mr. Bradshaw, who had known him for fifty years ; Mr. Batty, who had known him, and attended him professionally for eighteen years ; Mr. Sharp, the attorney, who had known him for twenty years ; and Mr. Bleasdale, his friend and acquaintance, during nearly the whole of his life, could be mistaken upon the subject of the competency of Mr. Marsden's mind ; either they have stated that which is true, or their evidence is a wilful mis-statement.

There is the evidence of the Rev. Mr. Nelson, the curate of Gressingham, which is about a mile from Hornby, who dined at Hornby Castle twenty Sundays in a year. He speaks of calling on Mr. Marsden, and inquiring

if he would continue his subscription to the school ; to which Mr. Marsden answered that he would continue his subscription so long as the school was properly conducted.

He speaks, too, of conversations upon the subject of agricultural produce, and the duties of landlords towards their tenants, and his confidence in Mr. Wright that he would act fairly between him and his tenants ; and he says that, in his judgment, Mr. Marsden was competent to give directions to make his will, and he would have had no hesitation in attesting its execution.

There is also the evidence of other witnesses, who occasionally visited at Hornby. Mr. Hesketh Fleetwood, who spent three or four days there in each year, from 1817 till 1823, and who gives similar testimony. His brother, the Rev. Charles Hesketh, who speaks shortly in nearly the same terms ; but as at the time that he knew Mr. Marsden, he was not above nineteen years of age, I do not think that his testimony adds much weight to the defendant's case.

You have then the evidence of Mr. Hailstone, an attorney, who saw Mr. Marsden on one occasion only. He went to Hornby by appointment, for the purpose of having some deeds executed for the conveyance of property. He went in company with one or two other attorneys ; they spent the day with Mr. Marsden ; he says the deeds were executed ; that the purport of them was explained to Mr. Marsden, who appeared to understand them. He received them with great kindness and hospitality ; pressed their stay the next day for the purpose of hunting ; but, a frost coming on, that purpose was frustrated. He conversed with Mr. Marsden in the course of the day on which he went, and the next morning ; and he gives you his opinion that Mr. Marsden was of competent understanding ; this opinion, however, you will observe was founded on this short visit alone.

You have then the evidence of Mr. Clarke, a Barrister, who met Mr. Marsden on nine or ten different occasions : introduced Mrs. Clarke to him, and Mr. Marsden spoke of having had the pleasure of dancing with Mrs. Clarke many years before. Mr. Clarke has given you his opinion of Mr. Marsden's understanding—that although it was an inferior understanding, and that he was rather weak, yet he thinks that he was perfectly competent to make a will. Mr. Clarke is a gentleman of long experience in the profession, and certainly must be competent to form a judgment upon the subject.

Gentlemen, I do not think it will be necessary to go through the remainder of the defendant's evidence, with the exception of that of Mr. Birkbeck of Settle, who is one of the witnesses, who brings the acquaintance with Mr. Marsden down to a later period than many others.

Mr. Birkbeck has told you of his having met Mr. Marsden at the house of Mr. Lister, to whom, you will remember, Mr. Marsden generally paid an annual visit of some length—at the house, I think, of another gentleman, and at his own—and meeting him in his walks ; Mr. Lister's house being in the immediate neighbourhood of Settle.

Mr. Birkbeck speaks of his not having himself received an education in science and literature, but he appears to be a man of excellent understanding. He gives his opinion in favour of Mr. Marsden's competence of mind.

The counsel for the plaintiff cross-examined Mr. Birkbeck with some severity, and I thought hardly dealt fairly by him. In his speech, he observed that Mr. Birkbeck, like others of his sect, did not answer questions directly.

That is a very old imputation upon the sect of which Mr. Birkbeck is a





member. Perhaps it might have been deserved in former times, when they lived more secluded from the world than they do now. I confess that I have often thought that the imputation has survived the fact. I did not observe anything in Mr. Birkbeck's answers, to warrant that observation—when ever he was asked a plain question, he gave a plain and direct answer; but the learned counsel more than once interrupted him, and with great dexterity engaged him in discussion—where that is the case, it is not uncommon for counsel to obtain some advantage.

You heard Mr. Birkbeck, and you observed the manner in which he gave his evidence, and are well qualified to estimate the value of his testimony.

Gentlemen, it is justly observed, on the part of the plaintiff, that amidst all this evidence in support of the competency of the mind of Mr. Marsden, we have the evidence of but two servants—Chester and Nutter.

Chester was examined at York—he has died since, and his examination has been read. Nutter has been examined before you, and it is to be remarked, that each of these witnesses is encountered by contradictions, as to declarations made by themselves, by, I think, at least two witnesses.

On the part of the defendant, they endeavour to account for the non-production of more servants, by saying, that Mr. Wright has, by the roughness and rudeness of his manners, made himself many enemies, and, among others, not the least among servants. To be sure from the account which we have had of Mr. Wright's manners to those beneath him, he is not likely to have been a favourite, either with servants or with labourers.

Chester, one of those servants, speaks to the circumstance of Admiral Tatham having, several years before Mr. Marsden's death, sent his card to Mr. Marsden, which he rejected with displeasure; but Chester is contradicted by witnesses called by the plaintiff, both as to the acts of Mr. Wright, and as to his own declarations in calling Mr. Marsden a d——d old fool; and there is a fact of a directly opposite description spoken to, by a witness for the plaintiff, of Admiral Tatham's meeting Mr. Marsden in the street in Lancaster, and inviting him to dine with him at the judges' lodgings; that Mr. Marsden appeared to be pleased with the invitation; but that on his mentioning the circumstance afterwards to Mr. Wright, Mr. Wright expressed his displeasure, and desired that he might not hear of Admiral Tatham's name again.

The learned counsel for the defendant, by way of reason for not contradicting some of those witnesses, says, how can I contradict witnesses of whom I have not known. A great many of these witnesses were not called on the trial at York.

Mr. Cresswell reminds me, that that observation cannot be applicable to the evidence which I have just mentioned to you, because it was given upon that trial. Therefore, the defendant was not unprepared for it on this trial.

Gentlemen—I have now called your attention to the general evidence of the competency of Mr. Marsden's mind, independent of the testimony of Mr. Sharp and Mr. Bleasdale.

I will now state the evidence of Mr. Sharp; he says “I am an attorney in Lancaster, and deputy registrar of the archdeaconry of Richmond. I have been in practice about thirty six years. I served my clerkship to Mr. Dowbiggin; he was Mr. Marsden's solicitor; Mr. Baldwin had been the partner of Mr. Dowbiggin before; I afterwards joined Mr. Dowbiggin, and became jointly the attorney of Mr. Marsden—that was in 1804. I began then to attend altogether to the business of Hornby Castle.

"In 1820, Mr. Dowbiggin and I dissolved partnership, and then I had the business entirely. I saw Mr. Marsden frequently—very often; I was in the habit of staying all night there—two or three nights in a week—for a long time, and I saw a great deal of him. I married in 1810; I passed more of my time at Hornby Castle, previous to my marriage; I frequently went in an evening to Hornby—slept there, and came back to breakfast.

"Mr. Marsden was in the habit of calling upon me at Lancaster. I believe he rarely came to Lancaster that he did not call. He generally called before dinner, and if he was going any distance, and I was going there too, he took me in his carriage.

"I have been concerned for Mr. Marsden in a great many suits in law and equity. I have frequently conversed with him on matters of business, as his attorney. I have conversed with him upon the subject of those suits—both law and equity suits. I have no doubt of his competence to make a will; I should not have conversed with him upon those subjects, if I had doubted his competency. I should have had no hesitation to have made his will, nor to have attested his will, as of a person competent to make it. I would not have made it if I would not have attested it. In my opinion, he was competent to manage his affairs with the assistance which a gentleman of property would require.

"The property of Hornby Castle is very extensive, and a property which required a great deal of management. Moors, mines, fisheries, quarries—it consists of hundreds of acres—every description almost of manorial right—these manorial rights were a great source of litigation—they, the fisheries, were broken in upon almost every day.

"In the course of my intercourse with him, I have conversed with him on general subjects. Mr. Wright used to retire very early to bed; and Mr. Marsden and I used to sit together an hour, or an hour and a half, and more, after he retired. Mr. Wright was his steward, I understand, many years before I came into the business.

"I remember an equity suit with Mr. Thomas Barrow, the Barrister. He filed a bill against him and Mr. Wright. Mr. Croft, of Gargrave, was indebted to Mr. Marsden and to the late Mr. James Barrow, and they both proceeded—each recovered a sequestration; and Mr. Wright was appointed sequestrator, and received the proceeds of the living, and accounted for them to Mr. Marsden—that gave rise to the suit. The attorney, on the other side, was Mr. Moore, but Mr. Wilson had previously applied to Mr. Marsden for payment—there was a proposition of reference—Mr. Marsden requested that I would make a proposition to Mr. Wilson to refer the matter to him himself—I made the offer personally—the suit went on, after the witnesses had been examined (the suit being then under the care of Mr. Rawsthorne, of Lancaster)—Mr. Rawsthorne made a proposition to refer it—he made the proposition on behalf of the Barrows—the suit had been revived upon a death—the first party was Sarah Barrow, the sister—then Thomas Barrow, and then Mr. Rogers, a nephew of Barrow—the suit is still pending.

"I saw Mr. Marsden upon the subject of the reference; I went to Hornby, and mentioned it to Mr. Wright; he told me Mr. Marsden was in the library, I might go in and ask him—I went to him and told him of the proposition of Mr. Rawsthorne—after a little hesitation, he said, Sir, I think this was to have been referred before; I said, yes—he said, I think I







offered to refer it to their own attorney ; I said, you did—he said, as they did not refer it before I will not refer it now—I went and told Mr. Wright, and we both thought it better to have it ended. We went in together to Mr. Marsden, and endeavoured to prevail upon him ; we both recommended it ; he again refused.

“ I took instructions from him for that answer in Chancery.

“ Mr. Marsden was near sighted. I have known him not recognize me a few yards distant ; he contracted his eye-brows, as it appeared to me to get a focus of light, that gave rather a singular appearance—a singular habit. When he did recognize you, he darted immediately forward to shake hands with you.”

Lest I should forget it, I will here remind you, gentlemen, of part of the evidence of yesterday, of Mrs. Edmund Procter. She mentioned twice—and both times unasked—that when she has visited at Hornby, the Miss Wrights have mentioned her name to Mr. Marsden. She introduced it certainly as imputing to him want of mind or memory.

If the evidence of Mr. Sharp be correct, it would be necessary for the Miss Wrights to mention the name of this lady to Mr. Marsden, unless she approached very near to him.

Mr. Sharp proceeds :—

“ Mr. Marsden’s manners were very gentlemanly—mild and gentlemanly—exceedingly polite ; his disposition very kind ; he was not a well educated man, and he frequently complained of that ; more than three or four times he mentioned the subject to me, and attributed it to his mother’s neglect.

“ Mr. Marsden was in the habit of reading the newspapers, and conversing on the politics of the day. I never heard him read, but he has told me the purport of the speeches made in parliament ; his memory was very good, particularly as to dates and persons. I have known, repeatedly, of his being referred to, as to dates and persons : and as to persons having visited the castle. Wright and I have referred to him ; we should say, if we differed, Mr. Marsden will set us right at dinner.”

Gentlemen,—we have, from other witnesses, an account of Mr. Marsden’s memory. It is said that he remembered much of the Peerage book—of the descents of great families—of public events, particularly of battles—the times when fought—and the officers who commanded.

Some of these things live in every one’s memory ; for instance, that the Battle of the Nile took place on the 1st of August, and that Lord Nelson commanded the English Fleet—that the Battle of Waterloo was fought on the 18th of June, and that the Duke of Wellington was the General.

The memory which is thus ascribed to Mr. Marsden is undoubtedly important.

Mr. Sharp proceeds—

“ I have dined there very often—a great deal, both in parties and in the family way. I never omitted, if I was in the neighbourhood on other business at their dinner-hour. I went without invitation.

“ I have known Mr. Marsden personally thirty years ; as his attorney for twenty-two years. I dined there a great many times every year. I have dined there for nearly a week together, when I have been there on business. Mrs. Wright sat at the top of the table when there was only their own family. Mr. Marsden at first sat at the bottom of the table ; a change was made, Mr. Wright taking the bottom of the table during dinner ; when dinner was

over, immediately after grace was said (and if no clergyman was there, Mr. Marsden said grace), then Mr. Wright left the chair, and Mr. Marsden took it; Mr. Wright took it, I understood, because Mr. Marsden was a bad carver; he was the most wretched carver I ever saw; Mr. Wright was a remarkably good carver. Mr. Marsden liked a glass of wine, but I never staid late at table; I have not taken wine for nearly twenty years. I have seen Mr. Marsden a little elevated, but not often." Probably, gentlemen, Mr. Marsden's partiality for a glass of wine, may account for some of the evidence which we have had on the part of the plaintiff. It came out, almost by chance, at the close of the evidence of one of the servants, that some strange conduct, related of Mr. Marsden, took place after dinner, when he had taken too much wine.

Mr. Sharp says, "I have met almost all the gentlemen of the neighbourhood of Hornby, at Mr. Marsden's table; Mr. Carus Wilson, more than once; Mr. Gibson more than once; Mr. Cawthorne, the member for Lancaster; Mr. Stout, of Lancaster, a magistrate; the Worswicks, of Lancaster, the bankers, repeatedly; the Rev. Mr. Hesketh, the father of Mr. Hesketh Fleetwood, the member for Preston. I have dined with them repeatedly: the Rev. Townley Clarkson, he used to be a visiter there: the Rev. Mr. Stainbank; Mr. Bradshaw; Mr. Bradshaw's elder brother; Mr. Bateman, a magistrate; Mr. Greene, the solicitor, of Gray's Inn, the father of the present member for Lancaster; the two Messrs. Hinde, of Lancaster. I remember the present Bishop of Bath and Wells (then Bishop of Chester) dining there; it was a large party.—Mr. Wright dined at the table that day,—Mr. Marsden sat at the head of the table. I remember Mr. Marsden retiring for a short time. The Bishop took occasion to propose his health; when he returned, it was communicated to him by the Bishop; he returned thanks in a very neat speech, and concluded by giving the health of Lord Ellenborough, the brother of the Bishop."

This fact evinces both mind and memory, and is as opposite to the account given of him by witnesses for the plaintiff, as if the two accounts related to two different individuals.

Mr. Sharp proceeds:—"Mr. Marsden was in the habit of making an annual visit to Giggleswick (to Belle Hill), to visit the late Mr. Lister; he told me so,—he used to call it his annual visit. After the death of the late Mr. Lister, he used to go to Gargrave to pay a visit to the present Mr. Lister Marsden. On those occasions Mr. Wright did not go with him; the length of the visits which he used to pay was, I believe, two or three weeks,—he generally fixed the day of his return when he left the Castle.

"When I first went to Hornby Castle the present Mr. Lister Marsden lived in the castle; he was curate of the chapel; he formed part of the family; that was some time before his marriage. Old Mr. Lister used to come very frequently; perhaps oftener than once a year; and the present Mr. Lister Marsden used to come frequently; he came particularly in the shooting season; I never saw Mrs. Lister Marsden there. In the year 1804 Miss Tatham was a member of the family; she was cousin, I understood, to Admiral Tatham, but I think she was only a distant relation of Mr. Marsden; she lived there; she had no other home; she has been dead a good many years; perhaps she was there for three, or four, or five years after I went there; she always dined at the table; none of the females did, when there was a party of gentlemen. I remember the day that Mr.





Marsden died—Saturday, the first of July, 1826 ; I was apprized of it by a special messenger, who came to me with a note announcing his death ; I received the same day a caveat against probate from Admiral Tatham ; I received it before I had finished the reading of the note from Hornby.

[Produces the Caveat.]

“ I had seen the admiral on the Thursday but one before—I met him at Rydal—I was returning from a visitation circuit, with Mr. Law, the chancellor of Lichfield, who is commissary of the archdeaconry of Richmond. We had stopped to look at Rydal chapel (a new chapel erected by Lady Le Fleming)—Admiral Tatham and Mr. Law were acquainted—I believe he lived near where Mr. Law lived, at Lichfield—he spoke to Mr. Law, who introduced me to him—I had no knowledge of him before, except that I think I had seen him.

“ The admiral almost immediately said, I think, Sir, you are the legal adviser of my relation, Mr. Marsden.—I told him, I believed I was.—He said, I know he will be afraid (or alarmed) at my being in the country, but will you be so good as to make my compliments to him, and say that he has not a better friend in the world than myself.”

Now, gentlemen, this is the third time that Mr. Sharp has been examined—It is not suggested on the other side that this fact is new—Mr. Law is not called to contradict him—and unless this be the invention of Mr. Sharp, the admiral could hardly have sent that message to a person of whom he thought that which his case to-day imputes to him.

The sending the caveat so instantly upon the event of the death of Mr. Marsden, undoubtedly was rapid, and not very consistent with the forbearance, which, throughout Mr. Marsden's life, he had used, of taking any step to divest him of the management of his own affairs.

Mr. Sharp proceeds,—“ I was before aware of the feelings that subsisted between them.—I never heard the admiral's name mentioned by him, but once in my life.

“ I thought I learned from him who he was most attached to.—I thought his feelings were in favor of the present Mr. Lister Marsden—he expressed himself to me in the way that I believed his will would be in his favor.

Before I knew that Mr. Marsden had made a will, I had retained counsel for the present Mr. Marsden.

“ He once told me, old Anthony is behaving ill to Anthony, but he shall never want a friend, and tears came into his eyes when he spoke (old Mr. Lister was not a clergyman).—I have met Doctor Lingard at his table more than once—for some years before Mr. Marsden's death, I had not.

“ I remember a conversation with Mr. Marsden about Dr. Lingard. I had been at Hornby on business. Mr. Wright and I had done our business before dinner, and I went out to walk, and met Mr. Marsden ; in conversation Dr. Lingard's name was mentioned. I said I saw him as I came up ; he said, yes, Doctor Lingard is a Jesuit. I replied, I believe he is of that order ; he said, yes, he is a Jesuit, both in principle and in practice ; he tells at my table what he hears at Mr. Murray's ; if so, he will tell at Mr. Murray's what he hears at mine ; he shall not dine at my table again.”

You will remember, gentlemen, that Mr. Sharp was cross-examined respecting this conversation, and particularly as to the date ; he appears to have a difficulty in fixing the date.

It appears from the evidence of Dr. Lingard, that he never dined there after 1816.

Mr. Sharp's recollection would place the conversation at a later period ; but unless there be some particular circumstances, fixing a date in a man's mind, he may have great difficulty in saying whether a conversation took place ten years ago or twenty.

It is said, you know, that ladies often fix dates by domestic events ; the birth of a first child, or the marriage of a son or daughter., I do not know what your experience has been, but, in mine, I have found persons very uncertain about dates, and often mistaking them.

You have heard Dr. Lingard state, that he never did repeat at Mr. Marsden's table what he had heard at Mr. Murray's ; after a lapse of eighteen years, I should think it very difficult to say that ; it might have been done without the least impropriety, and might have been so trivial an occurrence, as to have escaped the best memory.

Mr. Sharp then says, " Mr. Procter succeeded the present Mr. Marsden as curate of Hornby, I think, in 1805 or 1806." Mr. Procter, you will recollect, is one of the attesting witnesses to the will. " Mr. Procter was a great deal at Hornby Castle. I have attended with Mr. Marsden at church frequently, and he has sat with me at Lancaster on a Sunday, and I have gone with him to the chapel at Hornby ; he was very religious ; very attentive to the service always ; I never saw him take the sacrament."

With reference to this point of Mr. Marsden's demeanour at church, you have, besides the evidence of Mr. Sharp, the evidence of Mr. Bradshaw and Mr. Bleasdale ; they all speak of the propriety of his demeanour.

On the other side you remember three witnesses are examined to that point ; two of them who lived at Heysham, and saw him at church there with Mr. Wright, when Mr. Wright took him by the coat collar, to turn him from kneeling to sitting down ; and one of them who speaks to Mr. Marsden's conduct at Giggleswick church, says that he used to jump up and turn different ways when the sermon was going on, and old Mr. Lister pulled him by the coat, and he sat down.

It is for you to form your judgment upon the comparison of the evidence on each side on this matter.

Mr. Sharp goes on—" I have conversed with Mr. Marsden frequently about his alterations, and about the inroads that he fancied had been made upon his property ; he used frequently to tell what had been done. He was once very violent about Mr. Murray having pulled down a wall, which he had built round his park, Mr. Murray asserting that Mr. Marsden had stopped the way, and had pulled the wall down ; he gave me directions to proceed against Murray for doing so ; I prevailed on him not to do it. Mr. Murray had annoyed him exceedingly, and he was very desirous of proceeding. I said, if you let him alone, he may do something to give you a better hold of him." That is, he advised Mr. Marsden not to quarrel with his next neighbour, unless upon something more important. The question is, has Mr. Sharp invented this conversation or not ?

Mr. Sharp then goes on. " He told me he was going to extend the castle, and shewed me the stakes, in what way it was to be extended. He had several plans made by Mr. Webster, the architect, of Kendal ; he had made choice of one that was rather more florid than another, which was like the chapel in point of architecture.

" I remember being at Hornby in 1824, when Mr. Wright was ill. I







went on purpose to see Mr. Wright; the family were gone to chapel when I arrived, and I went into Mr. Wright's room; he was very ill indeed. Mr. Marsden came to me in the entrance hall, and asked me how Mr. Wright was. I said he was exceedingly ill, and I thought much worse than the family supposed him to be; he said he hoped not; that Mr. Wright had had the management of all his estates and matters, and if anything happened to Mr. Wright, he did not know what was to come of him."

This evidence, you will observe, is to be considered in opposition to the testimony of the witnesses called by the plaintiff, who have represented Mr. Wright as speaking to Mr. Marsden in a manner in which no gentleman would speak to a servant—insulting him, treating him as an inferior, and, indeed, as something inferior to man.

Mr. Sharp says—"I have read the will and the codicil. In my opinion, he was capable of understanding the effect, stripped of matters of form; I have no doubt of it. I never saw any difficulty in Mr. Marsden's understanding; anything I read to him he appeared to understand.

"I have frequently received letters from him; I believe one or two of no importance were kept; I never considered them of importance—I have seen a great deal of Mr. Wright; he is the reverse of a polite man; his manner is exceedingly abrupt; almost to every body; very authoritative, and very contradictory, too; amounting to rudeness—that is his general manner."

Possibly, gentlemen, this may account for some of the evidence on the other side, in which Mr. Wright's manner and behaviour are described—whether correctly or not is for your judgment.

Mr. Sharp says, "after the death of Mr. Marsden, I found in the cupboard, under the bookcase in his library, a number of letters, and copies of letters; it was called his room; he used it quite; I never knew any person go in, except to see him; I have seen all the letters that have been produced; I am not aware of any that have been produced, which were not scheduled to the answer, except some, I think, have been found since.

"I brought the letters to Lancaster; they have been in London, and they have been at York. There was an order for inspecting them; they were at my office at Lancaster for that purpose; they have been in my custody ever since the commencement of the suit; I have read the majority of them; I believe I have read all; I heard them read at the trial at York; I was present at York the whole time, and the former trial here the whole time; I have no doubt that Mr. Marsden was competent to write those letters."

Gentlemen—the observation of the learned counsel for the plaintiff upon this part of Mr. Sharp's evidence is well founded—Mr. Sharp is the only witness on the part of the defendant whose opinion on this point is asked. Mr. Sharp certainly speaks from a long and intimate acquaintance with Mr. Marsden, but his judgment is not confirmed by that of any other witness.

Mr. Sharp proceeds—

"Mr. Wright never, to my knowledge, took any step of importance about Mr. Marsden's estate without consulting him—never, so far as my knowledge went.

"I have had the custody of the deeds connected with the estate; they were found at Hornby Castle, kept in boxes; some of the deeds which I have here, I have procured from the purchasers of the estates." Mr.

Sharp then gives an account of the several deeds to which Mr. Marsden was a party, to which I shall, hereafter, call your attention. He proves the hand-writing of Mr. Marsden to the instructions for codicil, produced in the evidence of Mr. Bleasdale.

Mr. Sharp was then cross-examined.—He says, “Mr. Baldwin and Mr. James Barrow were partners; Mr. Baldwin and Mr. Dowbiggin afterwards became partners, but not immediately on Mr. James Barrow quitting; Mr. Baldwin practised for some years alone. Then Dowbiggin joined him, and he took the direction of the affairs at Hornby Castle. I became his partner in 1804; he and I separated in 1820. Mr. Marsden was engaged in numerous pecuniary transactions to a great extent; Mr. Dowbiggin and I were his attorneys, and we were Mr. Wright’s attorneys also, if he had any business; we did his business as well as Mr. Marsden’s; I do not know who kept Mr. Marsden’s accounts, but I supposed Wright; I have seen books in Mr. Wright’s room; he kept a clerk—George Smith. [A presentation which had been produced, and read previously, was shewn to the witness.] I know Smith’s hand-writing; I do not know this; it is not the character of Smith’s hand-writing at present. [Another presentation shewn him.] The body of this, I think, is not Smith’s; do not know whose it is; he wrote a remarkably good hand, and does: he was Wright’s clerk before 1804; I think he had recently come then; he lived, I think, at the Castle; I saw him constantly when I went there; whether he lived in the house I do not know, but I think he did; he was at York, but was not examined. He assisted Wright in looking after the workmen, and in keeping the accounts, as I understood; I have not been often in the room where he was; I do not know that I ever saw him in that room till the last few years; do not remember that I was ever in the room till after the death of Mr. Marsden; I saw him about among the workmen, and I understood he kept the accounts. I have transacted business under Mr. Marsden’s direction, and without the authority of Mr. Wright, certainly. I know he gave me directions, when Mr. Wright was not there, about Mr. Murray and the wall; I do not know that I ever transacted business without the knowledge and concurrence of Mr. Wright; do not think I ever did. I have taken instructions from Mr. Marsden, but Mr. Wright knew that I had taken them; I never acted on Mr. Marsden’s instructions without Mr. Wright’s knowledge.”

The question was put to him whether he ever did without Mr. Wright’s sanction. He says, “I did not think Mr. Wright’s sanction necessary. I should not have taken any important step without Mr. Wright’s knowledge, certainly. I should have done it on Mr. Marsden’s authority, without Mr. Wright’s sanction. I have said that Mr. Wright paid the money of the sequestration over to Mr. Marsden. I never saw Mr. Wright pay money to Mr. Marsden; Mr. Marsden had money; I do not know where he kept it; he had no banker, I think; I do not know who supplied him with money; he never paid me any money except I had settled bills for him; he dined at visitations with the clergy, and when he went away before the party, he desired me to pay his share of the bill. I have paid, and he paid me again. He gave me instructions that he had settled the money in account with Mr. Wright.”

He is then questioned as to the sort of answer Mr. Marsden had to put in. He says, “he had to admit that proceedings had been taken. I could have admitted that for him; a great portion of the proceedings were mat-





ters of form. The interrogatories were with respect to the proceedings. I should think that there was no matter within his knowledge that Mr. Wright did not know. Mr. Carus Wilson is alive; Mr. Stout is alive; Bishop Majendie is dead; Mr. Dowbiggin was deputy-registrar; the present Bishop of Bath and Wells was the Bishop of Chester who dined at Hornby as I have mentioned. I do not remember that I before said I had no recollection of that which I have said to-day. He thanked the Bishop for the honour he had done him in proposing his health, and also for the honour of dining with him. I will not swear that I was asked on the former trial if I remembered a compliment to the Bishop's family in return, and that I said I did not. I remember that Mr. Marsden did propose Lord Ellenborough's health; I do not remember whether I before stated it or not; I do not remember the question being put to me, or any answer; the thing is very strong in my mind that he did give the health of Lord Ellenborough.

"I have mentioned the conversation about Dr. Lingard both at York and here. When I mentioned it at York, I did not know that Dr. Lingard was coming as a witness. I had not seen him at York before I gave evidence, that I remember; my time was fully occupied there. I do not recollect having seen him at York before I was examined, and if I had, I do not think I should have been aware that he was to be a witness. I do not remember that I told you last time that I was aware he was at York.

"The conversation with Mr. Marsden was a few years before his death,—four or five, or six years, I should think,—but I cannot say; it might be three or four, but I cannot fix the date; it was a few years before his death; I should say four or five. I have dined at the table with Dr. Lingard some time before that, I think. I have more than once dined with Dr. Lingard at Hornby Castle, but I cannot fix the time. I do not know whether all the deeds have been produced now; my health has not allowed me to arrange them.

"There was a mortgage to Bleasdale for £13,000; I have seen it,—it was not prepared in my office. I have not seen it in Mr. Wright's possession; I saw it in Mr. Bleasdale's possession. I know Mr. Wright and his son are Bleasdale's executors. I do not remember when I first saw it, nor upon what occasion; I think it was inquired after last time. I believe I said that all the deeds should be produced, and it is my desire that no instrument should be withheld; I have no wish to conceal any thing. I do not consider that Mr. Bleasdale was the attorney for either Mr. Marsden or Mr. Wright. Mr. Bleasdale and Mr. Wright were very intimate. Mr. Wright was abrupt, authoritative, contradictory, and rude; he was steward to Mr. Marsden—his wife and family lived in the house—they dined at the same table with Mr. Marsden. I do not know what arrangements they had,—what allowance was made to Mr. Wright. I never knew any body hire a servant there or discharge one. I do not know whether Wright hired or discharged; I never saw a servant paid his wages. I do not know whether Mr. Marsden was a good accountant,—I know nothing of his knowledge of accounts,—I have no reason to think that he was a good accountant. I should think he was competent to settle his accounts with Mr. Wright,—if an account were made out, I should think he was competent to see whether it was right or not. I never settled a bill with him; I settled with Mr. Wright,—Mr. Wright

paid me. I never knew Mr. Marsden add up a bill,—I judge of his ability only from conversation with him; he has had more business, in transacting business and making contracts, than any client I have. I never knew him interfere in the borrowing,—I have heard him speak of borrowing and lending money to different people; what he owed to Mr. Bell, and what he owed to Mr. Yeats; he has spoken of both to me. I was never present when any contract was made. I have a faint recollection of his once paying a bill, but I am not sure of that; I do not recollect to whom, nor the time, nor the amount. I think I have a recollection of his settling an account with somebody, but the recollection is faint.

“He has dined with me repeatedly at Lancaster,—he has called on me,—I was generally in my office,—he came to me in my office. I never found him a disagreeable companion; he was not a bad client. I think he was at one consultation; I am not certain whether you (Sir James Scarlett) held the brief or not; I believe he was at one. I do not recollect the Judges ever dining with him; I have dined there with Baron Wood, and with many of the bar,—with several,—not since Baron Wood was a Judge. I have met Mr. Wood, Mr. Barrow, and Mr. Clifton. I knew Mr. Clifton very well; I remember Mr. Fitzgerald, but do not remember his being there; I remember his coming the circuit.

“I am a native of Lancaster, and came into the Courts when I was a boy, and I knew the Counsel better then than now,—they were not quite so numerous. He might be on the circuit in the year 1791 or 1792. I was never at Wennington Hall in Mr. Marsden’s time. I do not know of the transaction of the sale of Wennington Hall to Mr. Lister; I do not know of Mr. Lister paying £27,000 for it. I knew Miss Tatham; I think she lived seven or eight years after I went to Hornby Castle, and that was in 1804. I supposed that her will was made by Mr. Dowbiggin, but I do not know. I know Mr. Bleasdale’s hand-writing.—[Miss Tatham’s will shewn him.]—This is Mr. Bleasdale’s hand-writing; I see that Mr. Dowbiggin is the subscribing witness to the codicil; I have heard that Mr. Wright got her property. I do not remember Mrs. Cookson; I do not know whether Mr. Wright got her property. I have heard Mr. Wright speak of Danby rents,—I have understood they were Miss Tatham’s. I know that Mr. Wright has property at Heysham,—I cannot say the amount that he paid for it; I made the title deeds. He has bought several properties there at different times, and has built a house there; I do not know what it is worth.

“I know of an estate he has on the other side of the Lune, called the Higher and Lower Snab; I have no doubt he purchased it; I do not know the value; I have been at a house on it. I know he has a very poor estate at Gressingham Moor,—very poor land; I should be surprised to find it worth £7,000. I do not know of any estate given him by Mr. Marsden. I know the estate at Austwick,—a croft, and a house and cottage. I have heard him say he has an estate at Bentham. I do not know that he holds mortgages on different estates; I do not believe that he has any.

“I do not know anything of his personal property. You asked me before the value of his real estate, and I said I thought it might be worth £12,000. or £14,000. but I have no knowledge; I was never over them, except that I have been at the houses. I do not know whether his wife had any fortune, but I know that her father had a small estate at Melling;







she had several brothers ; one, I believe, was clerk to Mr. Wright, but I did not know him."

He was then asked again about the proposal of reference of the suit with the Barrows ; he says,—“I mentioned that to Mr. Wright immediately I went to Hornby ; I do not remember that Mr. Wright told me that he declined interfering in the conduct of the cause ; he referred me to Mr. Marsden. I do not remember that Mr. Wright told me that he had made similar offers to Mr. Wilson, and that they had been declined. I had Marsden's authority to state that he had ; I do not know that Mr. Wright made that proposition first ; I do not know what had passed between Mr. Wright and Mr. Wilson ; I do not think that anything had. I do not know that I have any memorandums that would assist me. At that time, when in partnership with Mr. Dowbiggin, I did not keep a letter-book ; since that time I have. I never saw Mr. Marsden write a letter ; I was surprised to find so many copies of letters ; I do not believe that he was fond of writing ;—I should have said that he was not.

“A person of the name of Thomas Waller was many years in the house ; he was at York ; he was Mr. Marsden's servant ; he was his servant long before I went there ; I understood that he was his servant at Wennington Hall—he left him many years before his death ; I cannot say how long ; I do not know that he is dead ; I sent him away from York.

“A deed has been named to-day, which was attested by Buttle ; he was a surveyor ; he is now, I believe, a prisoner, in this gaol, for debt ; he went from York, and I wished him to go, because I could not keep him sober. I was desirous of having him examined, if I could have kept him sober, and I employed a man on purpose to attend to him. The rule of all gaols, I believe, is to admit no spirits. I never saw Mr. Marsden as a juror. I should have had no doubt of his competency, but I am quite sure that he would have been reluctant to come. I have heard of his being summoned as a juror, but I never knew him attend.”

You will recollect, gentlemen, the evidence on that point, by one of the high sheriff's officers, that he was employed to have two summonses—one for Mr. Marsden, and the other for Mr. Wright ; he tells you that he left the one for Mr. Wright, but not the one for Mr. Marsden : and that on meeting Mr. Wright at Lancaster, he told him that he had not left the summons for Mr. Marsden, because he understood that he was insane ; and that Mr. Wright said, “not exactly insane, but not capable to fill the office of a juryman.”

On his re-examination, Mr. Sharp says, “George Smith is, I think, nearly fifty. I never saw him dine at Mr. Marsden's table ; I never saw him in his company. I have been walking with Mr. Marsden when he met him ; Smith touched his hat, and passed us. Mr. Carus Wilson is in bad health. Mr. Stout is nearly blind, and not in good health.” I inquired of Mr. Sharp, whether he could refer to any fact to enable him to fix the date of his conversation with Mr. Marsden, respecting Dr. Lingard ? He said he could not. He says further, “I stated that conversation in my evidence at York.”

Mr. Sharp then produced the will and codicil of Mr. Marsden, the will dated the 14th of June, 1822. The codicil dated 23rd February, 1825. “They are in my custody as deputy registrar. [Produces a red box.] This is the box which Mr. Marsden had. The will which I have produced, is the duplicate which Mr. Procter had.

"These are the documents which were produced at the trial at York ; and at the trial here—these were put into the hands of Mr. Bleasdale when he gave his evidence. That brown paper is the envelope of the will which was in the hands of Mr. Procter. The other was in the box without any envelope. I found that there after the death of Mr. Marsden ; the key of the box was taken out of Mr. Marsden's breeches pocket, in my presence, after his death."

Instructions for a codicil, in Mr. Marsden's hand-writing, were produced. Mr. Sharp then produced the letters.

A letter from Mr. Charles Tatham, and the copy of Mr. Marsden's answer in his hand writing ; two letters from Mr. Postlethwaite ; one from Mr. Oliver Marton, formerly curate of Lancaster ; four from Mr. Thomas Barrow ; two Mr. James Barrow ; one from Mr. Charles Gibson ; two from Mr. Richardson, an attorney at Kendal ; one from Mr. George Barrow ; one from the Rev. Mr. Ellershaw ; The correspondence with Mr. Wright ; the correspondence with Mr. Alexander Marsden ; letters from Mr. Croft ; correspondence with Mr. Greene ; and the correspondence with Mr. Dawson.

Gentlemen, I have given you the evidence of Mr. Sharp at length, because I think that his credit, as well as that of Mr. Bleasdale, is at stake. It is difficult, if not impossible, to say that Mr. Marsden was incompetent, without totally discrediting the testimony of Mr. Sharp.

Mr. Sharp appears to be an attorney of long standing in this town of Lancaster, and no suggestion has been made that in any action of his life he has conducted himself other than as an honest man.

With the exception of Mr. Bleasdale, which I reserve for a separate consideration, this is the general nature of the evidence in support of the competency of Mr. Marsden's mind. I come now to the evidence on the part of the plaintiff to impeach that competency.

The number of witnesses called by the plaintiff, it has been said, amounts to about one hundred and ten. Some of those witnesses speak to the youth of Mr. Marsden—others to his manhood and advancing age ; two or three of them were his school-fellows ; two were ushers at the schools which he attended ; two physicians, who knew him early, and one of them for many years afterwards.

There have been called also above twenty servants, above twenty workmen, and a number of respectable witnesses, who have visited Mr. Marsden at his house, or have met him in society.

These witnesses take him up first at Lancaster, where his mother, who had married again to a Colonel Bayley, then resided—he was then a school boy. Two of his school-fellows tell you that at school he sat with the usher—that he did nothing, and they thought he could do nothing—that the schoolmaster having tried to teach him arithmetic, and tried in vain, observing that he appeared to be attached to one of the witnesses, desired him to give him some instruction, and he attempted to give him instruction, but found that he could not receive it—that he could not count above eight or ten—hardly that—that when he attempted to write, and was directed, as a beginner, to make straight strokes—the strokes were made all manner of ways, only some of them at all straight, and that he thought he could not write at all.

It appears that he was, after that, at a school at Kirkby Lonsdale, and certainly some time after this he made a great start, because he, who at the age of fourteen or fifteen, could hardly make a straight stroke, wrote at





last tolerably, though even when he arrived at manhood, as we have seen, he never wrote well.—His hand-writing is that of a school-boy. Two of his schoolfellows speak of having given him assistance in his lessons, in latin—that he appeared to find it extremely difficult—and he does not appear to have made any proficiency in that branch of study. After this, he was placed under the tuition of Mr. Croft, and he was some time with him. It is clear that there were not the usual fruits of education—in after-life, he himself spoke of the defects in his education, as not having been entirely his own fault—but blamed his mother.

It appears, that at the close of his mother's life, he absented himself from her, and that on the occasion of her requesting to see him, when she was on her death-bed, he conducted himself extremely ill.—Doctor Campbell, who attended her, went to him by her desire—requested him to come to see her—mentioned the state in which she was, and the earnestness of her wish—and he refused to come—and refused in a phrase, which certainly was very extraordinary.—“I won't come, she has not treated me like a gentleman.”

Doctor Campbell says that Mrs. Cookson was present, and he ascribed the conduct of Mr. Marsden to her influence—in fact he did not go—and that is, I think, the only instance of his shewing a want of a kind and benevolent heart.

It should be recollected, that we are here inquiring into a circumstance which took place more than fifty years ago—it is difficult, if not impossible, for us to know what had actually taken place—whether any thing had or not, that could give any excuse or apology, for this conduct—nothing could justify it.

You have then the evidence of Doctor Campbell, and Doctor Cookson, who is his cousin. Doctor Cookson speaks of having seen him on three different occasions—once for a day or two, when he was about seventeen years of age. A second time for a day, at his, (the doctor's) father's house, at Leeds, in his way to Mr. Croft's—and a third time, for two or three days, at Wennington Hall, when on a visit to his elder brother—Doctor Cookson says, I considered him to be a connate imbecile—he says he did not apply that term to him on either of his two former visits, because he was not then sufficiently advanced in his medical education to be acquainted with the term. But that upon the third occasion, he was within a year of graduating, and he had then acquired sufficient medical science to be acquainted with it.

The description which he gives of a connate imbecile is this, a person who has no power of reasoning or discriminating—that such person may have memory to a considerable extent—memory of simple facts, but that their memory has nothing to do with judgment.

Dr. Cookson thinks that he was not capable of managing his affairs or making a will.

He has heard the letters read, and thinks that some of them he was not capable of composing.

In his cross-examination, Doctor Cookson was asked whether he had given this opinion of the letters at York—he said he had. It appears that he was mistaken in that particular, for on reference to Mr. Fraser's notes, we learn that no such evidence was given.—I do not think that circumstance derogates from Doctor Cookson's credit—there can be no doubt that it is merely an error of memory.

Doctor Cookson and Doctor Campbell apply the same term "connate imbecile," to the case of Mr. Marsden.

I am a little jealous of these medical theories.—I think that persons are sometimes apt to strain them too far.—This, however, is not a case of medical science, like a case of lunacy—a case of delusion—any man of sense and education, is just as competent as a physician, to form a judgment upon whether a man be or be not possessed of understanding.

A servant is then called, to state an incident which took place at a very early period; that he was sent to bring him from Lancaster to Wennington Hall; each rode a horse; he desired to stop to have a glass of ale; having drunk the ale, he asked who was to pay for it; the servant said, you, of course; to which he gave this extraordinary answer—if I pay twopence halfpenny what will my brother say; upon that the servant says—I paid it. It is an extraordinary circumstance to be recollected at this distance of time.

Another witness gives you an account of the death of Mr. Marsden's elder brother—he says that Mr. Marsden did not shew any symptoms of feeling upon the occasion—that the body was lying in state—that he went two or three times into the room with persons, and took off the face-cloth to shew the corpse.

The death of Mr. Henry Marsden took place in 1782; whether this witness has formed a correct judgment of Mr. Marsden's feeling it is difficult to say; some persons exhibit more—others less outward marks of feeling.

About this period of the history, Mr. Wright is introduced, who appears to have been the son of a small farmer—to have commenced life in a menial situation, as the servant of Doctor Geldart—taking care of his horse, and assisting also at an inn at Hornby. He came then into the service of Mr. Henry Marsden, it is said, at very low wages. Mrs. Cookson was then living in the house.

A witness, who was employed at the house as a tailor, gives an account of Mr. Henry Marsden's illness and death. He says that his illness was short; he at first described it as an illness of a few days—afterwards, he was not sure, but that it was longer; he says that he died from drunkenness; whether a habit of drunkenness, or whether a particular instance of excess brought on his illness, does not distinctly appear; he says that an attorney was sent for to make his will. He says that, at the time of Mr. Henry Marsden's illness, Wright was under notice to leave the service—a month's notice—that his clothes were packed up; and, he adds, that Mrs. Cookson was under a month's notice to leave at the same time.

Now, Mrs. Cookson was the widow of a clergyman, the aunt of Mr. Marsden, and had resided in the house for some time. Talking of her having received a month's notice to leave the house, like a servant, does appear to be ridiculous. You will judge whether he is speaking of anything that he knows, or whether he is not repeating some of the gossip of the kitchen.

He says that they left off making the liveries upon which they were employed, and made mourning.

You have it from two witnesses that shortly after the funeral, Mrs. Cookson, Mr. John Marsden, and Wright, quitted Wennington Hall for some time—on their return to Wennington Hall, it is alleged that Mrs. Cookson, though an old woman, formed an illicit connexion with Wright. One witness speaks to two distinct acts of criminality, and another witness to a third. It is certainly a long time after to be trying the reputation of this







lady on an imputation upon her chastity. This took place, if it did take place, above fifty years ago,—the witnesses are safe from all contradiction,—they are safe as regards all punishment in this world, even if they speak falsely. But the imputation receives great countenance from the sudden and otherwise unaccountable elevation of Wright. If the witnesses have given the fact correctly, he came into the house in a very low station; but shortly after this absence from Wennington Hall, he became steward of the kitchen, and was then, by the direction of Mrs. Cookson, called Mr. George; and some time afterwards was made steward in the place of Mr. Postlethwaite, an attorney, and that by Mrs. Cookson's directions he was then called Mr. Wright. And there are other witnesses who speak to his being put on a level with her and Mr. Marsden—walking arm-in-arm with her—and sitting down at the same table with them both.

These, undoubtedly, are extraordinary circumstances, and give confirmation to the witnesses who speak to their criminality.

It is perhaps difficult for us to form a decision on such a point, so many years after the parties who could give an answer, are in their graves (for Mr. Wright, who is still living, cannot, you know, be a witness for himself); and, therefore, such evidence ought to be received with caution, and when received, if believed, the next question is—what effect it ought to have upon the cause you are trying?

It appears that shortly after this, Wright, who, from what we have heard, must have made good use of his early years in acquiring knowledge, and who must be possessed of some strength of mind, was much confided in; and, under his advice, five years afterwards, a very important step was taken in the disposal of part of the Wennington estate, and the purchase of Hornby Castle and manor.

The Counsel for the plaintiff puts it to you that all this originated in a conspiracy between Mrs. Cookson and Mr. Wright;—that Mr. Wright from that time contemplated the getting possession of Mr. Marsden's property for himself and for his family;—that he thought he could with more ease lay his hand hereafter upon a purchased estate than he could upon the patrimonial estate; and that, acting on that system of fraud, he, with great forethought, advised the parting with the Wennington Hall estate, and the purchase of Hornby.

The theory is a very extraordinary one. I should have thought the fact (as it has turned out) that the sale of the one, and the purchase of the other was advantageous, might have accounted for the advice more naturally.

The case of the plaintiff proceeds from that time, supported by a great number of witnesses—servants, tradesmen, and workmen, who give you this account.—That either by Mrs. Cookson or by Mr. Wright, every thing respecting Mr. Marsden's affairs was managed; that even in matters the most trivial, Wright gave directions: the making Mr. Marsden's boots, making slippers, and making his clothes, hiring and dismissing servants—and these witnesses give you a number of instances in which they state Mr. Marsden to have betrayed great imbecility; that he rode into a field, and could not find his way out again, (whether that may be accounted for by his short sight you will judge)—that he was extremely timid, never galloped, except up hill; that he would not cross a hedge, but would have the hedge pulled down for him, and then cross it, saying, "Now, I will take a leap." They give you an account of his walking out when on a visit to Mr. Lister, and that he did not know his way home to Mr. Lister's house, and was

shewn his way, although the distance was not great, and he was likely to have been acquainted with it.

The witnesses give you most remarkable instances of his timidity—that he was afraid of dogs—pigs—turkey-cocks—ganders. Several witnesses speak to his timidity, as to dogs, excepting hounds—for you find that he would go into his kennel—a practice I presume to be ascribed to his early habit of hunting. You are told that if a turkey-cock flew at him, he would run away—that he was afraid to go by a house where there was a dog.

Those witnesses who speak to his extreme timidity, all speak to his understanding, as having been childish.

There is no quality which the common people hold in higher estimation than courage—there is nothing for which they have so much contempt as fear and cowardice—and the inference they would draw from such conduct as this would naturally be strong.

Several witnesses speak of Mr. Marsden having had a passion for checked aprons—so many that the fact cannot be doubted—I hardly know what inference to draw from that evidence—whether anything had occurred in the early part of his life, which, by association of ideas, produced this, we know not—he is dead, and we cannot ask him; we know the fact, and it is for you to say what influence that fact should have on your minds.

The counsel for the plaintiff then proceeds to give, in evidence, a number of instances of the dictation and control over Mr. Marsden by Mr. Wright; this is spoken to by servants—by workmen—by tradesmen, and by one or two witnesses in a superior station—most of the transactions spoken of are said to have passed many years ago—in several instances the witnesses are speaking to their recollection of the words used—and probably you observed that two or three of them gave an imitation of Mr. Wright's manner.

We hear from unquestionable authority that the ordinary mode of speech of Mr. Wright is abrupt and harsh. Whether his ordinary speech might or might not be mistaken by some of these witnesses for an order or command is for you to consider. A little uncertainty on that subject is introduced by part of the evidence which we have had.

One witness has spoken to an order to do so and so; he was asked whether he had not, at York, said, “you had better do so and so;” and he admits that he had; his answer was, I think, “I may have said so.” This shews how easy it is for a witness who is hostile, to give a colour to an incident that does not belong to it.

Probably you have heard persons give an account of conversations which you have heard, or of transactions which you have witnessed—if you have, perhaps you have hardly ever known two persons give precisely the same account—and as to persons reporting conversations which they have heard, nothing is more common than for them to substitute their own language for the language of the speakers.

You had yesterday a specimen of the different manner in which the same facts may be described. Two witnesses have given an account of the employment of an engine to take stones out of the Wenning. Mr. Marsden came by—and it is said, Mr. Wright ordered him away, or that he would be thrown into the river. One of these witnesses described Mr. Marsden as having been fifty yards from the river—the other said he was three. The whole thing depends upon this—if Mr. Marsden, a short-sighted man, was walking close to the bank, a false step might plunge him into danger; Mr. Wright might say, hastily, get away, or you will be thrown into the river





—without an imputation of impropriety, though he did not speak respectfully. One witness places Mr. Marsden fifty yards off, where he could be in no danger—the other places him precisely where danger might ensue.

You have the evidence of a witness, of the name of Singleton, who was formerly servant to the late Mr. Hesketh; that he was waiting at table when Mr. Marsden was dining with his master; there were at table Mr. and Mrs. Hesketh, Miss Rawlinson (the sister of Mrs. Hesketh), Mr. Marsden, and Mr. Wright. He says that Mr. Marsden having let his knife and fork fall, Mr. Wright said to him, “what are you blundering about, you old fool? is that the way to hold your knife and fork?” and that this was said in a rude and angry manner. Is it possible that Mr. and Mrs. Hesketh would have suffered Mr. Wright so to act, and not have shewn their displeasure?

It would go to shew, that a respectable gentleman and his wife knowing their grades, were not fit to be received in society, but no rupture takes place on this; on the contrary, you find that their friendly intercourse proceeded as usual. And Mr. Hesketh Fleetwood, and the Reverend Mr. Hesketh, the sons of this gentleman and lady, have been the invited guests at Hornby; the former of the two, year after year. When I hear such a statement as this, I own it makes me entertain some suspicion as to others.

Enoch Knowles was a workman, a carpenter, at Hornby Castle for twenty-four years, and he is one of the witnesses who gives a contradiction to Chester; he says that Mr. Marsden appeared to be a very weak man; his habits were quite simple and childish; his amusement was his fiddle, and he gave an account of his coming to him to mend the bridge of his fiddle; he says that Mr. Wright conducted himself very masterly towards Mr. Marsden,—told him at different times to get away about his business, and he went,—he gives the account which I have mentioned, of Mr. Wright ordering Mr. Marsden away, when they were using the machine for raising stones in the Wenning.

He says that George Smith was sent once by Mr. Wright to fetch Mr. Marsden into his room; when he came, Mr. Wright directed him to sit down, and set his name to a paper, which he did, and then walked out. That Mr. Bleasdale was a great deal at the Castle, and principally in company with Mr. Wright. That there was a talk about alterations in the Castle, but Mr. Marsden never took any interest in what went on. He gives a contradiction to Chester, the footman; whose examination was read on the part of the defendant; that Mr. Marsden has rung his bell many times; if Chester was busy, he would say, “he may ring as long as he likes, and I will go when I please. I have Mr. Wright to attend to”.

Then he speaks of his being subpoenaed to go to York; of his apprizing George Smith of that, that he might inform Mr. Wright, and Mr. Wright the next day told him he had got a good job for him in building a house; but when he found that he was determined to attend at York and give evidence, he discharged him, and on his cross-examination, there came out a circumstance, which gives rise to some suspicion; he said that he had a notion before he was subpoenaed, that he was wanted. Upon this, he was pressed with questions, to ascertain how it was that he had a notion that he should be wanted, and his answers certainly do not reflect credit upon him; he says he saw Mr. Higgin at Lancaster before he was

subpoenaed. (Mr. Higgin, you will recollect, is the attorney for the plaintiff.) From him he learned that he was to be a witness; he cannot say how long it was before; but he told him he would have nothing to do with it, so long as he was under their employ, and he did not. He is then asked how long before it was that he saw Mr. Higgin; he says it was not a year before the trial at York; it might be more than six months; he did not give him any evidence while he was under their employ, nor have any concern in giving evidence; that he asked him questions, no doubt, in regard to Mr. Marsden, but he did not answer his questions. He says "I did not give any evidence, and he did not particularly ask me; I said more in discourse; I did answer some questions put to me by Mr. Higgin. I cannot say that I told him how long I had been at Hornby Castle; I was not with him many minutes; I but just saw him; I had been down to Lancaster on business; I saw Mr. Higgin in his office; I went to him about this; he wished to see me; it might be six months; it might be eight; the trial at York was in the spring. I cannot say whether I saw him before or after Christmas; it was the only time I was with him at that time. I cannot say where I received the message from Mr. Higgin that he wanted me; it was not a note or a letter; I went to Higgin by myself; I cannot say who gave me the message; I think some one brought me a message, but I cannot say who; no doubt some one did; I cannot answer whether any person brought me a message to go to Mr. Higgin; I will swear I did not go of my own accord."

Not satisfied with this answer, the learned counsel asked him "will you swear that any one brought you a message?" to which the answer he gave was, "I was at Mr. Higgin's;" the learned counsel repeated the question, "Will you swear that any one brought you a message?" and his answer was, "I was there."

Certainly this mode of answering is not satisfactory; he proceeds:—"Mr. Higgin, no doubt, knew that I was a servant at Hornby Castle; he did not tell me to tell Mr. Wright that I had been there; I went back to Mr. Wright's; I did not tell him that I had been at Mr. Higgin's; I was at Higgin's a few minutes; it might be a quarter of an hour."

The remark which is made upon the conduct of this man in going back to Hornby, and continuing in the service of Mr. Wright after this interview with Mr. Higgin, is, to a certain extent, well founded—undoubtedly it was improper.

Gentlemen—among the letters that were found in Mr. Marsden's study which had been addressed to him by persons who are now dead, is one from the Rev. Mr. Ellershaw, who had been many years a clergyman at Hornby, and on leaving Hornby wrote to him a letter in terms of gratitude, affection, and respect. If Mr. Marsden were that which he is described to be by many of the witnesses for the plaintiff, the letter would be disgraceful to Mr. Ellershaw's memory. For the purpose of meeting that (as it had been known of before), evidence is given of a Christmas party at the house of a farmer in the parish, at which Mr. Ellershaw and Mr. Marsden were present; the time is represented to be about 38 years ago. Two witnesses are called, one the son of the farmer, and the other a labourer, and the account they give is, that Mr. Ellershaw came one evening at Christmas to play at whist with them; that the whist party was made up without Mr. Marsden, and that then, for the purpose







of making a table at lant, (which it is said is the same as loo); this labourer and two boys of the age of ten and twelve were put in requisition, and at this great distance of time, these two witnesses undertake to give a particular account of the game played—the stake played for—and the money lost. It is for you to judge whether their statements be correct, or whether, something having passed, they have improved it. It does seem wonderful, that at the distance of 38 years, persons can recollect such a transaction with such particularity as they affect to do; you are the best judges whether you could yourselves do it.

The memory of another witness is still more extraordinary—that of Mary Shaw; she is of the age of 52; she has given an account of transactions which took place 46 years ago, and on some surprize being expressed at her memory of things when she was six years old, she said at once that she could remember at four.

She gives you an account of her aunt keeping an inn at Hornby; of Mr. Marsden giving her sixpence frequently for driving away the dog, but always asking for the sixpence back again, so that she was never the richer.

On one occasion when some money was thrown into the road for a scramble, by visitors who came to the Castle, Mr. Marsden picked up a penny, and was going to put it into his pocket till checked by Mr. Wright, and made to throw it down again; and then she gives an account of a manor-court dinner, 46 years ago or better; and an hour or more after dinner, Mr. Wright said to Mr. Marsden, “you may go, we can do without you, sir;” and being asked to repeat the words, she then changed the “may” to “must.”

I do not know whether you observed that she accompanied this with an imitation of Mr. Wright’s voice and manner.

It is for you to consider whether you can safely rely on the accuracy of such evidence as this, where a person affects to state matters with such minuteness of accuracy, which happened at so early an age—there are some memories which are too good. Some people remember more than ever passed.

Gentlemen—you have heard the evidence of a great number of witnesses, servants and workmen, and others, as to the conduct of Mr. Marsden, which imputes imbecility to him, and also of control and dictation by Mr. Wright.

Of the latter, some of the acts described are of a nature, which, if correctly described, are of a revolting description—for instance, on Mr. Marsden being ready to go out with Mr. Wright when the carriage was at the door. Mr. Wright going up in an angry state with a horsewhip in his hand, and coming after him down stairs cracking the whip; that is spoken to by Margaret Anderson, who was a servant at the Castle.

And another, when Mr. Marsden had not done as he had been bid; that Mr. Wright went into the room with a horsewhip to him, and that Mr. Marsden was heard to be crying like a child.

Observation is made on the testimony of some of the witnesses for the plaintiff being much more extensive than their testimony was when examined at York.

The trial at York was not the first examination that had taken place on this subject. There had been a commission from the court of chancery,

and witnesses examined, as we see, under that commission, some of whose depositions have been read, the witnesses having since died.

At the trial at York, therefore, it would be to be expected that those who examined the witnesses, would know all that they had to state, and would examine them accordingly. If, therefore, a witness now relates a number of important facts on which he was then silent, that affords some ground of suspicion. But things may occur to a man at one time, which do not at another, and particularly when he is repeating events which happened at a remote period.

A witness, who was very deaf, gave you an account of Mr. Marsden having lost himself in a field, and he related a conversation, in the form of question and answer, which took place fifty years ago, which he said he could remember as well as if it had been yesterday. I should very much doubt whether the most powerful mind, and the most retentive memory, could be equal to the task which this illiterate man affected to perform.

Mr. CRESSWELL.—And Joseph Everington, the plumber, is the person who spoke of that control which your lordship alludes to.

GURNEY, B.—I think there are some other facts, which were spoken to by tradesmen.

Margaret Anderson says—"I lived as housemaid at Hornby Castle, about twenty-three years ago. I stayed there fifteen months. I remember Mr. Wright and Mr. Marsden going in a post-chaise to dine at Lancaster. I was standing between the dining-room doors when Mr. Wright came into the hall; Mr. Marsden was then in his bed-room; Mr. Wright went up with a horsewhip in his hand, and said he would fetch that d——d old devil out of his room, as he was never ready when the chaise came; he went up stairs, opened the door, and said to Mr. Marsden, 'come out this moment, who is going to wait for you?' Mr. Marsden then came out, and went down stairs. Mr. Wright followed him, cracking his whip after him, into the hall. Mr. Marsden appeared much frightened."

A plumber, of the name of Everington, gives an account of putting up some water-closets in Hornby Castle, in the year 1811 or 1812. That before the job was finished, Mr. Marsden came and amused himself with the motion of the water, and threw in small pieces of paper for the purpose of observing the effect. This, undoubtedly, was a very trifling amusement; the learned counsel for the defendant, in reply, says, that very sensible men sometimes do amuse themselves in a manner as trifling; whether that be so or not, I will not pretend to determine; possibly a water-closet might be a new thing at Hornby Castle, and might be a novelty to Mr. Marsden. I think that the more material part of this evidence is, that Mr. Wright found him thus amusing himself, took him by his coat, put him out, and said if he caught him there again, he would take the horsewhip to him. This, gentlemen, you will observe, is spoken to by a tradesman, not a person who has been in the way of having any difference with Mr. Wright, and not likely to have imbibed any hostile feeling respecting him.

I do not think it necessary to detain you by more observations upon this general evidence of the workmen and servants, excepting this, that it is clear that Mr. Wright is an obnoxious man; that to inferiors his manners were offensive, not likely to create friends; and I think a dislike to him has been manifested by some of the witnesses who have been examined.





It has been observed by the counsel for the plaintiff, that this will is not the will of Mr. Marsden, because it is so unlike him, as he is described by those who have given the most favourable account of his capacity; that he is represented as a kind, humane, and benevolent man, and yet there is not a legacy to a servant.

It appears to me that the observation on that circumstance on the other side, is infinitely more strong. The case of the plaintiff is, that Mr. Wright has, by the agency of Mr. Bleasdale, made this will, and that this is the result of a plan of nearly fifty years. That Mr. Wright is a man of great forethought; that every thing was done with great deliberation, and yet when the will was to be made, which was to produce the consummation of his wishes, there is not the least care taken to conciliate a single person, particularly a single servant, in its favour.

I should have thought that Mr. Wright, if he were the maker of the will, and be such a person as the case of the plaintiff supposes, would have taken care to have given legacies to different persons, whose voices might be influential; and above all others, that he would have given legacies to the servants at Hornby Castle.

Respecting legacies to servants, persons differ; it may happen that a man of benevolence and kindness may not give them; a man of an opposite character may. But I think that the total omission of legacies to servants is not a weak circumstance, to shew that those who made the will, had no motive to conciliate those, whose hostility might be very dangerous.

Gentlemen, we have another class of witnesses of a very respectable description; visitors at Hornby, upon whom the conversation and manners, and deportment of Mr. Marsden, have made a very different impression from that which was made on witnesses of the same description, called by the defendant.

Mr. Johnson and Mr. Rawlinson, both attorneys, who were formerly clerks to Mr. Dowbiggin; Mr. Millington, a canal contractor, who paid a visit to Hornby, in 1817; Mrs. Greene Bradley, Mr. and Mrs. Atkinson, the Reverend Mr. Gibson, Mr. Hamilton Parr, Mr. Edmondson, Mr. Ellison, Mr. Harrison, Mr. Gibson, Mr. Remington, Mrs. Edmund Procter, Mr. Nowell, and Mr. Lonsdale, the portrait painter; Lord Stanley, Mr. Rawsthorne, and Dr. Lingard.

I will take the evidence of Lord Stanley first, as it is very distinctly in my memory;—the visit which he paid was in 1812, when he was canvassing this county for the honour of representing it in parliament. Before he went he had understood that he was to have the interest of Mr. Marsden, and it seems that Mr. Marsden, though a high tory, always gave his support in the county to the Stanley family. The visit appears to have been without any preparation. Lord Stanley was accompanied by Mr. Wilson France and Colonel Houghton.

Lord Stanley gives an account of the interview; shortly after its commencement Mr. Wright left the room to order refreshment. Lord Stanley addressed Mr. Marsden for his vote and interest; he says that he did not make much way with him; he got civil answers, but they were laconic and shy, more in the way of courteous gesture than anything else; that after Mr. Wright's return to the room they got on better. Mr. Wright took the lead and answered for Mr. Marsden, and said, "I am sure that

Mr. Marsden will have great pleasure in giving you his vote and interest without putting you to any expence, will you not Mr. Marsden?" Mr. Marsden answered by a bow, but made no reply; they went to the top of the Castle to see the view. Lord Stanley again endeavoured to engage Mr. Marsden in conversation, but got very little out of him; he bowed courteously, but did not speak. Either Lord Stanley or Mr. Wright, or some other person, always began the conversation; that Mr. Marsden never once attempted to join in it, and at no time did he make an observation.

It is to be considered that Lord Stanley was a stranger, a gentleman of rank, for whom Mr. Marsden was likely to have a good deal of deference, and that Mr. Marsden's manners were shy, and his habits retired.

The evidence of Mr. Lonsdale appears more important; Mr. Marsden sat to him for his portrait, (which portrait you saw) at Wr. Wright's, at Heysham. He says he endeavoured to get him into conversation once or twice, in vain; and after that he did not attempt it; he says, he thought his intellect very weak; that it was a delicate weak mind; he should have thought him not competent to any business.

The learned counsel for the plaintiff reminds me that Mr. Lonsdale spent more than a fortnight in the house with Mr. Marsden, and I think that that is the longest period spoken to by any of the witnesses who are called by the plaintiff. He says the portrait produced is as correct a representation as he could make it; but he acknowledges that he should always do his best to give the subject a lift if he could. This portrait was taken about twenty years ago.

I will read the evidence of Mrs. Greene Bradley, the lady of a gentleman, who resides in this neighbourhood, and who is a barrister and a magistrate. This lady says, "I have had opportunities of seeing Mr. Marsden; and I think I must have seen him half a dozen times; I went to call at Hornby Castle about a year before his death; my mother accompanied me, we called in the morning, I was invited to visit the hot-houses, Mr. Marsden accompanied us into the hot-houses, Mr. Wright and Miss Wright were of the party.

"Mr. Marsden and I went first; whilst we were there I saw some plants which I admired; I praised them to Mr. Marsden (we were there a few minutes before the rest of the party); he said he knew very little about plants; but he said, take any you like, Mrs. Bradley—any you like; he did not separate any; while we were talking, Mr. Wright came up; he did not hear Mr. Marsden say this, but when he came in I said, Mr. Marsden has been so kind as to say I may take any plants I like; Mr. Wright said,—his indeed! they are none of his to give; then, turning round to him, he said, a pretty thing for you to give them,—they are none of yours, Mr. Marsden; he then proceeded to tell me that he paid a rent for the glass, as he called it—that he paid a rent for all the glass about the place, (meaning the hot-houses); Mr. Marsden said nothing, but looked dejected, and shortly after slunk or went off quietly, and left the party, and did not speak at all. Mr. Wright was ruffled very much,—very angry, and lost all self-possession. I made an observation to Miss Wright;—not sure whether Mr. Wright heard it, but he was so near that he might have heard it;—"I am afraid that Mr. Marsden (or the old gentleman) is offended;" she said, not he,—he is not offended,—never mind him; the father might have







heard it. Mr. Marsden afterwards came back into the drawing-room; I asked him if he had taken a long walk; he said, no ma'am, I came back to the house. Music was the subject of conversation; there was a piano-forte in the room; I asked Mr. Marsden if he was partial to music, and if he played the violin; he said, he did not play the violin now,—he played on the organ—it was proposed that we should hear the organ, and we went up stairs to hear it; he was there before us; it was both a barrel and finger organ; (I understand music); he who winds the handle of a barrel organ must do it equally, otherwise he will be out of time, and it will destroy the effect; he tried to set the tunes, but could not manage them; he got Miss Dorothy Wright to do that for him; then he began to turn the handle; he did it irregularly, and without the slightest knowledge of what he was about; I thought I never heard time and tune so much at variance. If the barrel organ be played regularly, the time is exact; if moved with irregularity, it becomes extremely disagreeable to the ear; we did not stay a great while; it was so imperfect a performance we were rather anxious to leave it; we went down stairs,—he did not follow; I heard the organ playing still in that same bad manner; I stayed more than an hour, and heard the sound of the organ with the same imperfect execution.

“From the opportunities I have had of seeing him, I did not think him capable of rational conversation, or transacting any affairs of business; I have heard letters read in Court, which purported to be written by him; from what I observed of his conversation, I did not think him capable of rational correspondence. I heard all the letters read, I did not think him capable of comprehending those subjects. I really did not think he could carry on a correspondence, I did not think him capable of that correspondence.” On her cross-examination Mrs. Bradley says, “I may have been in his company seven or eight times, once at my own house; he called, I think one morning, he came in a gig alone, stayed an hour; I think he once came with Mr. Wright to dinner at my house; I think it was in 1821 that he called, soon after I came to live here. I think that was the first time I saw him; I considered him a gentleman, and considered that to be a call from a gentleman, to a gentleman coming into the neighbourhood. When he dined, he of course came on my husband's invitation; it was with a party; one or two ladies were there; Mr. and Mrs. Eidsworth, they were known to Mr. and Mrs. Wright; we made parties suitable to those that were known to each other; I think Mr. and Mrs. Sharp, they were great friends of Mr. Wright. I think Mr. and Mrs. Butler, who were also neighbours of Mr. Wright (Mr. Butler is a clergyman). I have dined at Hornby Castle four or five times or more; my husband not always with me; I went sometimes without him to see the Miss Wrights. I have dined there several times, in the Summer generally; it might be twice a year; they were not set parties. Mr. Bleasdale, I always met; they were just a family party; they were always extremely friendly. I visited as one neighbour might go to another; my house is six or seven miles from Hornby. Mr. Bradley used to go there occasionally in the shooting season. I did not know Mr. Greene, my husband's uncle. Mr. Greene, the member for Lancaster, is Mr. Bradley's cousin.” On her re-examination, Mrs. Bradley says, “I was well acquainted with the Miss Wrights; I think them very intelligent, and well educated young women; that drew me more to the house than I should otherwise have gone; Mr. Marsden

had no conversation. I have tried once or twice to converse with him, but was never able to do it. He has conducted me to the dinner-room, and I have sat next him; he was never able to connect any sentences, or make any conversation of it; he was very polite, a silly politeness, I used to think it."

Ladies, you know, are very nice observers of manners; that which in the old school was considered to be polite, may, in modern days, excite some ridicule.

If Mr. Marsden were now living, he would be seventy-six years of age, and his manners would not be particularly agreeable to a lady of the refinement, and the accomplishments which this lady possesses.

Mrs. Bradley proceeds, "I have asked him if he had been to London, to the theatre, to the exhibitions," the answer was, "no ma'am, no ma'am." My opinion of his intellect was formed from the visits which I paid at Hornby Castle, as well as what I was first asked to. I asked him those questions about the theatre, on the morning I have before spoken to. I did not learn whether he had seen the King or Queen at the theatre; once when I was sitting next him at Mr. Wright's, at Heysham, I asked him a question about the walks; he could not describe the walk he had taken."

You have heard the evidence of Mr. and Mrs. Atkinson, who gave their opinion of Mr. Marsden's incompetence. Mrs. Atkinson resided at Hornby before she was married; she was acquainted with Mr. Marsden from 1813 till 1819, and also with the Wrights, and visited the Castle occasionally, but never dined there, but drank tea. She says she never found that Mr. Marsden could keep conversation up with her; she cannot say she tried him; he talked of the common topics of the day; she did not think he could have understood beyond the day, the weather, or, towards Christmas, the compliments of the season; he was very civil in his manners. She has heard him grind the barrel organ, when he appeared delighted; but she did not think that he understood music. He was requested one evening to bring his violin down; he did so with satisfaction, and commenced with 'Dainty Davie,' which he got through, after many stops, and with great difficulty.

Now, upon this subject of Mr. Marsden's knowledge of music, and of his playing on the violin, we have had the evidence of Messrs. Lushington, as to the years 1799 and 1803; it is not impossible, perhaps not improbable, that his knowledge and his play had both declined. Mrs. Atkinson says the Misses Wright were amused and laughed at his indifferent playing, and the faces which he made; he attempted another little air, but could not get through it.

Mrs. Atkinson gives an account of playing one evening at 'commerce'; he was long in choosing his card; Mr. Wright hurried him, and said in a rude tone, "why are you so long?" or to that effect. Mr. Wright drew a card from Mr. Marsden to himself, not giving him time to choose; and once he drew them past him, tossed him a card, and said, "take that." Mr. Wright always hurried him in choosing. That was after Mr. Marsden had gone out three times, lost his three sixpences, or lives, and was going on a fourth. She says he knew diamonds from hearts, spades from clubs; he always tried for what we call a 'flush.'

Mrs. Atkinson thought the young ladies did not treat him as the master of the family; they used to joke, and treat him lightly; he was a cypher





in the family ; he was fond of cake, always eat it when it was offered to him ; it was often at a great distance, whether by accident or design she does not know. When the tea was finished, and the bell rung to take it away, she has heard him ask one of the ladies for a bit of cake ; Miss Jane Wright pushed the cake to him, and said, here take a bit, and said something to herself which she did not hear—Mr. Wright was not present.

Then Mrs. Atkinson adds—from what she saw of him, she should not think him capable of writing a rational letter.

She says these events were from 1813 to 1819.

Then she is asked in cross-examination about her father, who was Mr. Parkinson, an attorney in Lancaster, who you will recollect appears as attesting witness to some instruments—she says, “ he was a sensible and an honourable man.”

There are other witnesses who speak to the incompetency of Mr. Marsden’s understanding, and some who speak to his inability to count money.

Mr. CRESSWELL.—Mrs. Kitson gave evidence of his playing at commerce, and his inability to count.

Mr. Baron GURNEY.—Upon this question of his ability or inability to count, you have the evidence of these two witnesses. The evidence of his ability to count is but slight.

There is no evidence of his paying a larger sum than £5.—there is no evidence of his ever receiving any money,—there is no evidence of his counting money except once, when he gave a guinea, consisting of half a guinea and silver, to a medical gentleman saying, “ there is a physician’s fee for you.”

On the other hand, besides the evidence of these ladies as to his inability to count at cards, there is an instance of his inability to count money, at least as strongly spoken to by Mr. Remington, who accompanied him to Lancaster. Mr. Marsden called at a silversmith’s shop to purchase a small present for one of the Miss Wright ; the purchase was within a guinea, and the witness tells you that in paying for it, the silversmith was unable to make him understand the amount of the change ; that he himself was distressed at it, and walked away to the door to avoid observing more of it.

The evidence of the Rev. Mr. Gibson did not appear to me deserving of great weight ; he speaks of Mr. Marsden having dined with his father ; that they talked about Correlli, and Mr. Marsden said, Correlli was a very fine composer ; that is the only observation that he can remember to have been made by Mr. Marsden. Then he gives an account that Mr. Marsden was pertinacious in mixing his wine, first drinking port, and then gooseberry wine ; that he got drunk and was carried away.—I think these premises hardly warranted the conclusion at which Mr. Gibson arrived.

Besides the evidence which Mr. Remington gave, about the inability to count money, he has given a strong opinion on Mr. Marsden’s incompetency. An attack has been made upon him that he was once a witness to the execution of a deed by Mr. Marsden ; and that by so attesting his execution, he must be taken to have then considered him as a person of competent understanding,—that, however, appears to have been done when he was a very young man—I think nineteen or twenty. He is asked,

too, whether he is on friendly terms with Mr. Wright. He admits that he is not on friendly terms with him,—to the question, whether he is not on unfriendly terms with him, it was difficult to obtain an answer.

I have omitted to advert to the evidence of Mr. Hartley, the attorney. He was concerned for some of the purchasers of the Wennington Hall estate in 1788; he went to Wennington Hall with four other attorneys, by appointment, for the execution of the deeds; they spent the day there, and the next morning the deeds were executed. He says that an event occurred, which made him doubt the competence of Mr. Marsden's mind; that after dinner Mr. Wright and Mrs. Cookson quitted the room; that Mr. Marsden then desired them to fill a bumper, and give the health of Mr. Wright and Mrs. Cookson; and very soon after desired them to fill again, and again gave the health of Mr. Wright and Mrs. Cookson, and added, "may they live a thousand years."

It was, you know, formerly the fashion to give toasts; and this expression, which is a common Spanish compliment, and I think appeared in our newspapers in a letter from a Spanish Admiral to an English one, became a phrase much in use. It is for you to say, whether this furnished sufficient reason for the doubt which occurred to Mr. Hartley. I confess that I should rather have accounted for it by considering it an excuse to get another glass of wine. It is certain, however, that Mr. Hartley did conceive a suspicion upon the subject, for he consulted the other attorneys, and suggested the objection to Mr. Barrow, who was then Mr. Marsden's attorney. He says that Mr. Barrow did not agree with him; but said, that at all events they would be safe, as the money would be laid out in two or three days in the purchase of Hornby.

This, he says, satisfied Mr. Bolton, an able and experienced attorney, on whose judgment he relied, and they completed the business by the execution of the deeds and the payment of the money, taking the precaution to have the attestation of Mrs. Cookson and Mr. Wright to the deeds; and you will recollect that the deeds do bear the attestation of Mrs. Cookson and Mr. Wright.

Mr. CRESSWELL.—As your lordship took the trouble to read the deposition of Mr. Townley Clarkson, perhaps you will be so kind as to read the deposition of Mr. Johnson, as it follows Mr. Hartley upon that subject.

Mr. Baron GURNEY.—With great pleasure. Gentlemen, I am reminded of a deposition in Chancery by Mr. James Johnson, the attorney, of Kendal, taken in the year 1828; I will read it throughout.

(The learned Judge read his deposition. See page 194. Vol. ii.)

Gentlemen,—This witness attested various deeds executed by Mr. Marsden, and yet he gives an opinion against the competency of his mind. I do not know what is to be said for a person, who, after again and again attesting acts so solemn as the execution of deeds, shall, thirty years after, come forward to speak to the incapacity of that person.

Mr. CRESSWELL.—It was by his master's order.

Mr. Baron GURNEY.—It is true that he was only a clerk at that time; but the orders of his employer were no justification of him in doing that, if he so thought. There is a frightful inconsistency in this;—there is no safety for mankind, if a person can be allowed so to conduct himself.

Mr. Hamilton Parr, an attorney of Liverpool, was at school at Hornby; he frequently saw Mr. Marsden when he was a boy, and his knowledge of







him and intercourse with him having continued since he was a man, he gives a very strong opinion of the incompetence of Mr. Marsden. He speaks, however, of his reading the newspaper, and conversing with him on what he had read.

We have then the evidence of a gentleman of great respectability, Mr. Nowell, which I will read to you at length. Mr. Nowell was formerly one of the members for the county of Westmoreland. He says, "My acquaintance with Mr. Marsden commenced in 1807 or 1808, and continued till 1815 or 1816. I dined with him once,—he did not dine with me,—he visited me I think once. I have seen him on other occasions; I may have seen him altogether seven, eight, or ten times. I attempted to draw him into conversation,—I never succeeded. I had a particular desire to draw him into conversation to ascertain the state of his mind. It was from reports in the neighbourhood. I proposed questions to him such as I thought were sufficient for the purpose, and such as arose out of the occasion; he was very polite and gentlemanly in manners. When I talked about the weather, perhaps I got an answer. I do not remember that I spoke of that; I asked him questions about his premises and his property,—this was at the Castle. I walked out with him, and asked him questions with a view to excite him. The first visit I paid, Mr. Wright was there, and I could make nothing of him when Mr. Wright was there,—I saw that. Mr. Wright was the foremost,—he spoke for him,—therefore, I called again to see him alone, if I could. I happened to find him alone, and then I had the opportunity of more particularly examining the state of his mind. He had received me in his house. I walked him out, I believe, to the other side of the Castle—the garden; he had no mind whatever—he was a fool. When I asked him questions about his property, he said, "I don't know, Mr. Wright knows; I don't know, Mr. Wright knows," over and over again. This respected his grounds and his property, and what I saw on the spot,—respecting his garden, his buildings, and premises. I dined with him once, and sat next him at dinner, in a large company. There was no opportunity of conversing; from the opportunities I had of judging of him, he was not competent to manage his affairs, or any kind of business,—totally incompetent,—he was a fool. I was at York; I heard the correspondence read,—I have heard it again upon this trial,—in my judgment it was utterly impossible that he could have composed the letters to Mr. Greene on business, or any of the letters that I heard,—impossible that he could have composed those to Mr. Dawson or Mr. Marsden. I have heard the will read; if that had been put in plain language, it was impossible that he could have been made to understand it,—he could have had no comprehension of it."

Then, Gentlemen, Mr. Nowell is cross-examined. He says their acquaintance commenced in 1807 or 1808; he thinks he saw Mr. Marsden in 1818 with Mr. Wright, but is not quite certain. He saw him alone soon after that,—he dined with him,—it might be in that year or the year after, but he is certain of having seen him seven or eight times, although he only once dined with him. He has found Mr. Wright there when he called, but only once found Mr. Marsden alone.

This evidence of Mr. Nowell is very strong. The comment made upon it by the Counsel for the defendant is, that Mr. Nowell going there for the purpose of sounding Mr. Marsden, did not sufficiently conceal his

design ; that Mr. Marsden discovered it, and would not talk ; you are to judge of the sufficiency of that explanation. Undoubtedly this account is very different from the account given by gentlemen who knew Mr. Marsden in former times,—so different, that it is as if the witnesses on the one side, and the witnesses on the other, were speaking of two different men. If you think that Mr. Marsden did make this discovery, that might account for his conduct.

Mr. CRESSWELL.—Your lordship's recollection of the evidence of Mr. Hamilton Parr differs from my recollection of it. I think your lordship said he recollected Mr. Marsden reading the newspaper.

Mr. BARON GURNEY.—I will refer to my notes, and I will read Mr. Parr's evidence throughout. He says, "I was at Cantsfield school, four miles from Hornby; the school was kept by Mr. Procter at that place before he came to Hornby. In 1808 and 9, my father had a house in Hornby. I was there from thence each year till 1813, for about a month in autumn. I often saw Mr. Marsden—in the Castle, in the grounds, at my father's, and at Mr. Procter's. I met him at dinner parties."

This reminds me, gentlemen, of an observation which I have omitted, it is this: that Mr. Marsden was never secluded from the world by Mr. Wright. We learn from very many witnesses, that he received company at home, and went out to parties, as well as paid his annual visit to Mr. Lister, where he met other parties.

Mr. Parr goes on to say, "I was often alone with him. I formed a judgment of his understanding—he was not capable of holding any conversation that I heard. His powers of judgment and discrimination were extremely weak. He was not capable of managing his own affairs, or of understanding the extent or value of his property. I think he did not. I have seen him often in company with Mr. Wright at the Castle and other places. Mr. Wright's manner and conduct towards him were kind enough. He treated him with a sort of indifference. He interrupted him, and corrected him in conversation rather abruptly. He treated him as a boy, and kept him in order. Mr. Marsden behaved himself to Mr. Wright with great respect and submission. He was very timid—very much afraid of a dog. His manners were exceedingly polite—troublesomely polite; pulling off his hat; making many bows. I heard several letters read at York. None here. One I recollect on the death of a person that both he and the person he was writing to were acquainted with—a letter of condolence (to Mr. Dawson). I thought he was not capable of writing such a letter. I heard very little of the will read. I do not think he was capable of making a will."

On his cross-examination, Mr. Parr says that he has served some subpoenas in this cause, and taken the examination of one witness—Miss Dorothy Butler. That since 1812 he has merely paid passing visits at Hornby, that in those visits he has seen him four or five times—never staid—never slept there. He says that he has seen Mr. Marsden with a newspaper, and he has talked with him about the newspaper which he had read, so as to form a judgment that he had read it, and that he was very fond of talking of it.

Perhaps he said at York that Mr. Marsden was very fond of reading the newspaper. He thinks he was, he was very fond of talking of it, and from his talk he thought that he had been reading the newspaper and was fond of reading it. He says, that on one occasion he was left alone with





him, he began a sentence and stopped in the middle and gave a vacant stare, and all recollection appeared to leave him.

As to that, gentlemen, a man stopping in the middle of a sentence, and forgetting the remainder, is a thing of every day's occurrence.

There is one more witness, whose evidence I will read to you, that of Dr. Lingard, the historian, a Catholic clergyman, well known to be a gentleman of high literary attainments.

Dr. Lingard says, "I have resided for some years in the neighbourhood of Hornby Castle; I knew Mr. Marsden from the year 1811 till the end of 1816; I have seen him since frequently in the street; I have not been at his house since, I think; I may have called once in 1817; I went abroad in 1817.

"1816 was the last time I dined there; I never dined there since my return from abroad; I dined there frequently in large parties, and frequently with the Wrights alone. Mr. Wright frequently invited me; Mr. Marsden never invited me except by a note. Mr. Wright gave me personal invitations; I had frequent opportunities of conversing with Mr. Marsden, both there and at my own house, and at the houses of gentlemen in the neighbourhood, and have talked with him in the street—I have conversed with him on trifling subjects; I think I had an opportunity of forming a judgment of his intellect, as much as any man. I thought that he was extremely weak—weak in intellect and weak of purpose—certainly not capable of understanding matters of business, or of giving any rational instructions for the transaction of business. I conceive that he was very easily controlled—which was what I meant by saying he was weak of purpose. I looked on him entirely as the property of Mr. Wright." This is important, when you consider Dr. Lingard's subsequent conduct. "He appeared to me to be under Mr. Wright's control. On one occasion, I saw him take a letter from him—Mr. Marsden rose from the table, and went towards the door—Mr. Wright called out, "where are you going?" Mr. Marsden turned round, and muttered something which I did not distinctly hear—he then turned to the door, and endeavoured to open it—Mr. Wright called out in a more imperious tone, "where are you going, I say?" he replied, "to give a letter to some one," (a servant) Mr. Wright said, "where is it?" he replied, "in my pocket;" Wright said, "put it on the sideboard, and come and sit down:" Mr. Marsden took it out of his waistcoat pocket—put it down and returned—rubbing his hands with an awkward smile—like a school-boy detected in a trick—and sat down.

"That is not the only instance of control which I saw exercised over him. I heard Mr. Wright frequently check him in conversation; when he began to speak—Mr. Wright used to say, "what do you know about that?" he always answered, "Yes; Mr. Wright knows—Mr. Wright knows."

"After my return from the Continent, I may have called once—I was never invited to dinner after that—I had refused a great number of invitations before, because I dislike to go there. I never mentioned anything at his table that I had heard at Mr. Murray's; nor could I at the time mentioned by Mr. Sharp—it was impossible—there was a great quarrel between Mr. Murray and him, when I was upon the continent; I had no personal knowledge of that; Mr. Murray died in 1822—I think the latter part of October or November.—I am not of the Jesuit college.—Mr. Marsden did not appear to me capable of combining his ideas."

Doctor Lingard was then questioned as to the composition of those letters, he says :—

“I have bestowed a great deal of study on composition of style. I have had copies of the letters to Mr. Alexander Marsden, since I came to Lancaster; I heard the letters read in court, but rather imperfectly. From what I knew of Mr. Marsden, I think, that of himself he could not write a rational letter on business. I do not think he was capable of composing any one of those letters to Mr. Alexander Marsden; I observe a difference in the style between those letters and some of the early letters—some of the early ones are very poor things; I do not remember to whom; I dare say they are before 1790, or about that period; I remember the Buxton letters, they do not appear to me to be the composition of the same person that composed the Marsden letters. I remember the letters addressed to Mr. Dawson; I heard them at York—not perfectly; I heard some of them—from what I did hear of them, I think they were composed for him—I think him incapable of writing them and the letters to Mr. Marsden. I think there is complete internal evidence of their being written by two different persons—the first letter is, with one exception, free from grammatical errors, and in very good language—the second is in very inelegant language, and full of grammatical errors; the same person could not have written them. The error in the first letter, is the omission of a word, which I think is the fault of the copyist; the first letter is that in which he traces his descent—there are some traces in that, which may be the language of a lawyer—but I am not acquainted with lawyer’s language.”

The letter was then read.

Dr. Lingard says he was not competent to write that certainly; the phrase at the conclusion, “I am with the highest respect,” is not the mode in which any of his letters are terminated.

Mr. CRESSWELL.—No, my lord, I think that was with regard to another letter.

Mr. Baron GURNEY.—It may be a paragraph before that conclusion. You may be correct in that—but I have so taken it.

Mr. WIGHTMAN.—Your lordship will observe, that Alexander Marsden’s letters conclude much in the same manner with the expression with the highest regard.

Mr. Baron GURNEY.—The best way will be for me to read the letter.

(Read the letter, see page 258, vol. 1.)

On his cross-examination, Dr. Lingard says, I dined there perhaps a dozen times in a year—he has dined with me once or twice in company with Mr. Wright.

You will remember, that when the learned counsel, for the plaintiff, was cross-examining Mr. Lushington, he asked him, As you admit, that this gentleman was a man of weak mind—what was your inducement for visiting him? It did not occur to the learned gentlemen to put that question to Dr. Lingard. I can understand that gentlemen like Mr. Lushington and Baron Bolland should visit Mr. Marsden, if he was the person whom they describe him to have been; but I cannot understand a gentleman of the ability, and literary attainments of Dr. Lingard dining with him a dozen times a year, for several years together, if he was a person so extremely low in intellect, as Dr. Lingard has described him.

The learned counsel, for the plaintiff, reminds me, that Dr. Lingard was not asked why he went—nor why he ceased to go. I had observed, that







he had not been asked why he went, and I confess that I am unable to conjecture.

Gentlemen—in the general view of the evidence for the plaintiff, I have omitted to remind you of the evidence of some witnesses which contain strong imputations on Mr. Marsden's capacity. Two or three witnesses speak of his having a wish to breed from cropped mares, and to breed cropped horses, for they were the best.

The learned counsel for the defendant suggests to you that that cannot have been said seriously by Mr. Marsden—that it was a joke, though a bad one. If you think so, then that evidence will have no weight; if you do not think so, then such language shows a weakness of mind of a very extraordinary character; and it must be said that after making all the allowances that can be made for hostility to Mr. Wright, on the part of some of the witnesses, yet there remains a large volume of facts, deposed to by many witnesses, respecting both the incapacity of Mr. Marsden, and the control of Mr. Wright.

There are witnesses on the part of the defendant, who speak of Mr. Wright's demeanour to Mr. Marsden, in their company, having been respectful: there are witnesses of respectability on the other side, who speak of particular instances of rudeness by Mr. Wright to Mr. Marsden; and others who speak to conduct of Mr. Wright towards Mr. Marsden, of more than rudeness. One instance of rudeness I mentioned to you some time ago, to which I confess I can hardly give credit.

You are to form your judgment upon the comparison of the evidence on the one side with the evidence on the other. The evidence on each side exhibits an extraordinary contrast. There are opposite opinions formed by persons of equal rank, respectability, and capacity. Some tell you that they think that though he was a man of weak mind, yet that he was competent to make a will.

Others tell you, that in their opinion, he was absolutely incompetent—almost an idiot. You are to judge between them; and in judging, you will not look at the case partially, but take into your consideration the whole of the evidence.

To strengthen the evidence of the opinion of the witnesses called in support of the will, the defendant proceeds to give you other proofs of a different nature—in the first place, the execution of deeds.

It appears that from the period of the design of parting with Wennington Hall, and purchasing Hornby Castle, Mr. Marsden has executed a great number of deeds—he has conveyed, borrowed, exchanged securities, given bonds, and it is suggested to you in support of his competency, that all this brought him in contact with a number of attorneys of great respectability; and that it would be too much to say that all those persons, most of whom are in their graves, would have concurred in the attestation of those deeds, if he had been the imbecile man which he is represented, by the witnesses for the plaintiff, to have been.

With respect to those persons, the presumption is more or less strong, according to the degree of their knowledge of Mr. Marsden. As to Mr. Baldwin, Mr. Barrow, and Mr. Dowbiggin, they all knew him well—many others, probably, knew nothing more of him, than that they saw him execute the deeds to which their names appear—whether a single interview of that kind would enable persons to form a judgment, might depend on what took place.

Mr. Hailstone has told you, that when he attended, the deeds were read over or stated, and Mr. Marsden appeared to understand them. On the other side, evidence has been given by two witnesses, of Mr. Marsden being called in by Mr. Wright, to sign his name to deeds, and to notices, respecting game; that he was told to sign—and that without being told what it was he was to sign—he did sign.

His signing papers in that way, would furnish no evidence of his soundness of mind. But these were instances of his signing in the presence only of Mr. Wright, and his own attorney's clerk. But other deeds appear to be attested by persons independent of Mr. Marsden, and who were persons of respectability; if they were surviving, we should be able to learn from them what did pass; but as they are not—all that we can infer from their attestation, perhaps is, that they saw nothing in the conduct of Mr. Marsden, to induce them to think he was incompetent.

We then come to another head of evidence, upon which you have heard many comments; I mean the letters. The learned counsel for the plaintiff admitted that, provided Mr. Marsden had written all those letters, his competency was established. The admission was not too great, because no person could have the slightest doubt of his competency, if he had written all of them.

The correspondences which have been produced are,—first, that with the late Mr. Greene, from the year 1787 till 1804. Mr. Greene was a gentleman in the profession of the law, of great respectability,—the father of the present member for Lancaster; he knew Mr. Marsden personally and well, and the letters produced are not copies, but the original letters, both of Mr. Marsden and of Mr. Greene.

The correspondence with Mr. Wright, where, too, you have the originals on both sides, is from 1791 till 1814; this correspondence took place at times when they were separated from each other; for instance, when Mr. Wright was in London, and Mr. Marsden at Hornby; and some when Mr. Marsden was with Mrs. Cookson, at Buxton.

The correspondence with Mr. Dawson is from 1811 till 1820. Here we have the original letters of Mr. Dawson, but of Mr. Marsden's only copies in his hand-writing.

The correspondence with Mr. Alexander Marsden from 1811 to 1820; here, too, the evidence of Mr. Marsden's letters is that of copies in his writing, with the exception of three originals, which have been received from Mr. Alexander Marsden by Mr. Bell, the plaintiff's attorney.

I have mentioned to you already, that, on the part of the defendant, no witness whatever, except Mr. Sharp, was asked the question as to the competency of Mr. Marsden to write these letters; he says he does think him competent to write them all. On the part of the plaintiff several witnesses have given an opposite opinion.

I think that it is difficult to say that all these letters were written by Mr. Marsden. These letters are presented to you by Mr. Wright as the composition of Mr. Marsden, for the purpose of enabling you to take a measure of Mr. Marsden's capacity, in contrast with the judgment which has been formed by the plaintiff's witnesses.

It is imputed to Mr. Wright that he had long anticipated a day of trial, in which the competency of Mr. Marsden's mind would become the subject of inquiry; and that he had made preparation for it, either by Mrs. Cook-





son, or by himself, or by some other person composing letters for Mr. Marsden, to the composition of which he was utterly unequal.

If, gentlemen, it can be established that Mr. Wright has practised such a fraud and imposition, as to present to you (I do not mean as to two or three letters merely, but the mass) letters as the composition of Mr. Marsden which were not his composition, I think that that would not merely take a weight out of one scale, but would put considerable weight into the other; because, if you are convinced that Mr. Wright be capable of that, you would suspect every arrow from that quiver which it could be in his power to poison; therefore, this is a very important question for your consideration. I say again, not as to every one,—if you were to take out one, or two, or three, or four,—but are these letters in general the composition of Mr. Marsden? and if they are, what is your judgment of the inference to be drawn from them?

Several witnesses for the plaintiff have told you that they think Mr. Marsden utterly incapable of composing them; and, as they have told you that, in their judgment, he had no mind at all, that must be their opinion.

The letters appear in the hand-writing of Mr. Marsden, and it is incumbent upon the plaintiff to impeach them. You have heard them read, and you shall have them all laid before you when you retire to consider of your verdict.

The only witness who is examined minutely to any of them is Dr. Lingard, with respect to the correspondence with Mr. Alexander Marsden. The first letter, he says, is well written, and has but one grammatical error, which he imputes to the copyist. The second is full of grammatical errors. A legal phrase, which is used in the first letter, is commented on,—“male issue.” The learned counsel for the defendant accounts for that by observing that you have heard of Mr. Marsden’s familiarity with genealogies of peers, and other persons of rank, where he says that phrase would be found, and that that would account for its use, although Mr. Marsden had not had a legal education.

For the purpose of strengthening the suspicion that these letters were composed for Mr. Marsden, the plaintiff has produced three of the original letters which were sent to Mr. Alexander Marsden; and it is observed that, in the address of one, there appears to be the trace of a pencil mark, of a D, larger than is covered by the writing in ink; that there is an omission, in the letter sent, of an interlineation which appears in the copy produced; and that the word, or part of the word, *neighbourhood* is written on an erasure; and the counsel for the plaintiff undertook to prove that the first syllable, *neigh* is the hand-writing of Mr. Wright. The witness to that was Mr. Crook, who had been formerly clerk in the bank of Messrs. Worswick. I do not think the selection of the witness to Mr. Wright’s hand-writing was remarkably good; he was familiar with his hand-writing for many years before that bank failed, ten years ago, but had had no knowledge of it since; and when he was shewn some of the letters written by Mr. Wright, he could not tell whether they were wholly Mr. Wright’s writing, or partly his writing and partly that of another person’s. You saw those letters, and therefore had the means of forming your own judgment, whether they were not clearly all written by the same person.

On looking at this letter, Mr. Crook says, he thinks the letters *neigh*, are the writing of Mr. Wright, but on being asked a little further he fixes

more particularly upon the letter *g*, he is then asked to look at the letters *ne*, and at the letters *ne*, in the date of the letter, and to say whether he does not believe them to have been written by the same person; he says he thinks they are. In the course of my professional experience, I have known useful discoveries made by the use of a magnifying glass; I sent out for one, and examined it myself, and submitted the writing to your examination with that assistance. I confess that the doubts which had occurred to me upon the view by the naked eye were not strengthened by that examination; on the contrary, it looked better when all the defects were exposed. But you have yourselves examined it, and your judgment upon the subject is much better than mine. This, gentlemen, is the only evidence we have respecting hand-writing.

There is another observation on these copies, in the hand-writing of Mr. Marsden, which appears to me to be of much more weight and importance, that in every one of them the whole of the subscription is copied, containing the form of an original letter—"I am, your obedient servant, John Marsden." That certainly is not what we should expect to find in the copies of letters made by any man, much less a man, who is described as indolent and averse from writing; which habit is used as an argument against the probability of Mr. Marsden making any copies whatever, unless under the dictation of Mr. Wright.

It is perhaps difficult for one person to form a judgment as to what another would do; whether in the monotony of a country life, an indolent man, and a man averse from writing, might thus amuse himself; it is to be observed, that the name John Marsden, is written more elaborately in a larger hand; and it is undoubtedly very remarkable, that Mr. Marsden should have made copies of these letters, and that he should not merely copy the letter, but in every instance the whole of the subscription. It may be said, to be sure, that extraordinary things do take place every day we live.

By way of accounting for any difference in the style, it is suggested by the Counsel for the defendant, that the style of the later letters is better than that of the earlier ones; and that that would arise from improvement by practice. It is further observed, that all these correspondents knew Mr. Marsden personally. Mr. Greene was his confidential attorney, and knew him well; Mr. Dawson had paid him one visit, and but one; but more than one of his sons visited him, and Mr. Dawson after that went on corresponding with him. On the part of the plaintiff it is thrown out, that Mr. Dawson might perhaps be willing to wink at Mr. Marsden's incapacity; that he was his relation; and that he might expect that either himself or his children might be the objects of his bounty; and the more so, because one of the early letters of Mr. Marsden, makes inquiry as to his children; in answer to which inquiry, Mr. Dawson enumerates the names of every one of his children. To this it is replied, that if he expected to be the object of his bounty, it must be by his will, and his will would be worth nothing if he had not capacity to make one.

It is observed by the Counsel for the defendant, that Mr. Dawson's sons, who visited Hornby, are not called; on the other hand it has been observed, that the defendant has not called either of his daughters or his son-in-law, or George Smith, who appears to be the attesting witness to some of the deeds executed by Mr. Marsden. He is represented to have







been present at the signing of the paper respecting the game, and some of the deeds, and if the witness had not given a correct account of these transactions, he might have contradicted him. The observation was pressed still further, that as he kept all the accounts, it might have been shewn by him whether Mr. Marsden and Mr. Wright ever settled any accounts.

Undoubtedly he might have been called for that purpose ; and not having been called, I think the inference to be drawn from that is, that he could not have proved the settlement of any accounts between them.

I understood the learned Counsel to have carried his observation further still ; I understood him to have said, we (meaning his clients) have never seen any accounts down to this moment ; and if the accounts were produced, it might appear that Mr. Wright had been practising frauds on Mr. Marsden. The observation, as I understood it, made a strong impression on my mind ; but it has been said by the learned Counsel for the Defendant, in his reply, that all Mr. Wright's account books were scheduled to the answer ; that the plaintiff might therefore have seen them, if he had thought proper.

Mr. CRESSWELL.—That was not what Sir James Scarlett intended.

Mr. BARON GURNEY.—Then it seems the objection was not meant to be carried so far as I supposed ; I did not suppose that the learned Counsel was speaking by the card ; and therefore apprehended that he had complained that no accounts had ever been produced ; and did not imagine that he was complaining of an ignorance which was voluntary on the part of the plaintiff, or those who advise him. Still, the observation is well founded to this extent, that Mr. Wright has not produced any accounts before you, and has not called Smith to verify them ; from whence I think the fair inference is, that Mr. Wright could not, by Smith, have proved the settlement of any accounts whatever. We are not trying Mr. Wright for being an unfaithful steward ; we are trying Mr. Marsden's competency. If Mr. Wright could have proved that Mr. Marsden settled accounts with him, and understood them, that evidence would have been very important.

In answer to the observation on the daughters of Mr. Wright not having been called, the learned counsel for the defendant says that it would have been indelicate in Wright to subject his daughters to examination, when the imputation would have been, that he was capable of still more wickedness than had before been imputed to him ;—that he had brought his daughters to commit perjury in a case in which they must feel the deepest interest. Whether you think the objection or the answer to it the stronger, is for your consideration.

I now come to a part of the case which I have reserved as distinct—the evidence of the late Mr. Bleasdale.

Mr. Bleasdale, we find, was an attorney of eminence,—the head of a respectable firm in London, of Bleasdale and Alexander. He was an early acquaintance of Mr. Marsden's ; he preserved that acquaintance during the whole of his life, and being a native of this county, when he quitted business he retired here, and lived near Hornby. He has died since the trial at York. You have not, therefore, the advantage which that Jury had of seeing and hearing him ;—you have that which comes next to it—his evidence, in the form of question and answer, as taken by Mr. Fraser, the short-hand writer. This reminds me of something which I ought to have observed upon.

Gentlemen,—I have thought myself constrained to admit the verdict on

the trial at York in evidence with the rest of the proceedings; but I think that I am bound to tell you, that in my opinion it ought not to weigh in your minds. The evidence at York might well found the verdict which was then given; but the cause is now tried upon different evidence,—a great many witnesses have been examined by the plaintiff who were not examined at York, and you are to decide upon the evidence which you yourselves have heard. I beg you, therefore, to throw that verdict entirely out of your consideration, and to consider this case as if it had not been tried before, although we are obliged to make reference to that trial again and again, as we have had the evidence of witnesses who were then living, but who have died since.

Gentlemen,—I have admitted in evidence several letters addressed to Mr. Marsden, which were found in his library, to which no answers appear; they were written by persons who have been long since dead—Mr. Barrow and others,—the letter of Mr. Ellershaw is a strong one. The only effect of this evidence is, that those persons did address Mr. Marsden in the terms of those letters,—as they are dead, we cannot ask them what they thought of him. The letter of Mr. Charles Tatham is, I think, of the most importance of any. We have heard that there were four brothers—Colonel Tatham, Henry Tatham, the Admiral, and Charles;—Charles, you remember, went to America; and from Alexandria, in Virginia, writes to Mr. Marsden the letter which was commented on by the Attorney-General yesterday. It is a letter expressive of gratitude for kindness,—it speaks of Mr. Marsden with affection, and is such a letter as one would wish to see written by one relative to another,—it is the more material, as coming from the youngest brother of the heir-at-law, Mr. Marsden being a single man.

With this observation I dismiss these letters. I will now read the evidence of Mr. Bleasdale.

[The learned judge read the evidence of Mr. Bleasdale. See p. 107, v. 1.]

Mr. Bleasdale confirms himself by the production of the instructions for the codicil, of which he has spoken, in the hand-writing of Mr. Marsden.

[The learned judge read the codicil. See page 356, vol. 2.]

The learned counsel for the plaintiff stated that he should contradict Mr. Bleasdale, when he deposed that he had not made any will for Mr. Marsden before the death of Mr. James Barrow, who died in 1798; that he would prove from his own accounts that he made one in 1792, and another in 1795, and another in 1808, when Mr. Wright was present.

The books of Mr. Bleasdale have been produced; and Mr. Loftus, then his clerk, and since one of his successors, has been called. It appears that in the year 1792, there passed through the office a will to be copied,—the charge in the book is, “Paid to the stationer one guinea—paid carriage,” so much. It is clear, therefore, that the will was not drawn in London by Mr. Bleasdale, but that it had been drawn at Lancaster,—that it was sent up to be copied by a writing stationer,—and that Mr. Bleasdale’s charge is the money paid for the copying and the carriage.

In 1795 the charge is precisely similar. In 1808, it appears from Mr. Loftus, that there was a short codicil executed in London, which was attested by Mr. Loftus and two other clerks. Mr. Wright was not present, and it does not appear that there was any charge made in the books for the preparation or execution of that codicil.

Mr. Bleasdale had spoken in his evidence of his services to Mr. Marsden having been gratuitous, and this evidence confirms him.





A short codicil, even if it were prepared by him, might have escaped his memory ; it was a very different thing from the elaborate preparation of a will.

This, gentlemen, is the whole of the evidence of Mr. Bleasdale ; that evidence was given by him four years and a-half ago ; the attack upon his credit is that which I have just stated—and further, that he knew Mr. Wright at an earlier period than he stated in his evidence, which appears from a letter that has been read—and further, that he prepared the will of Miss Tatham, in favour of Mr. Wright and his family. To which it is replied, that the advantage of that bequest appears to have been very doubtful ; for when Mr. Wright announced her death to Mr. Bleasdale, he appears not to have made up his mind, whether he should take out probate—from which one should infer that he did not expect to profit much by it.

And it is further urged against his credit—that since that trial took place, Mr. Bleasdale having died, it appears by his will, that the family of Mr. Wright are the principal objects of his bounty. From all these things, you are asked to come to the conclusion that Mr. Bleasdale is not to be believed.

Now, as to Mr. Bleasdale, this is no question of judgment or opinion ; he had perfect knowledge of Mr. Marsden—he had known him almost all his life ; he states positively, that from Mr. Marsden—and from Mr. Marsden alone—he received the instructions for the will ; that the legal machinery was his, or his conveyancer's : but that the will was prepared implicitly in conformity with those instructions.

Now, as to the will itself, it first gives two pecuniary legacies—£6000 to John Marsden Wright, his god-son—and £5000 to Margaret Wright, his god-daughter. There is no legacy to any other of the children ; it ratifies the gift of a farm, called Upper Salter, to John Marsden Wright ; then his personal estate is left to Mr. Wright, in trust, to pay debts, funeral expences and legacies. It gives the advowson of Gargrave to John Marsden Wright ; it devises the real estates to Mr. Wright, who is to suffer the person for the time being entitled to occupy Hornby Castle, and grounds, rent-free. Mr. Wright is for twenty-one years to have the power of letting and managing the real estates with the most extensive powers, and receiving the rents ; he is to appropriate £2000 a year for the liquidation of incumbrances. He is to retain £1000 a year for his own use ; and the £1000 a year is continued to him, if he survives the twenty-one years. The surplus, Mr. Wright is to pay to the person entitled, according to the limitations. These persons are, first Mr. Lister, (now Mr. Lister Marsden) for his life ; then his eldest son, for his life ; then to his issue male ; and in default of issue male, to John Marsden Wright, and his heirs for ever. Mr. Lister is, within three months, to resign the vicarage of Gargrave, that John Marsden Wright may be presented to it, or Mr. Lister is to forfeit all interest under the will.

Mr. Cresswell reminds me of the part that follows, which is very extraordinary ; that if Mr. Wright should die, or be desirous of relinquishing the management of the estate, he may appoint, and in default of his appointing, even his executors may appoint, a manager of the estates with the same powers. The answer to this is, that the estate had thriven under Mr. Wright's management ; and that Mr. Marsden was desirous of the estate going on under the same management ; but that does not account for his leaving his executors power to appoint a manager after his death.

Another extraordinary circumstance is noticed, that the eldest son of

Mr. Lister is the only person who shall take (although there is another son) ; and that in default of that eldest son having issue male, the estates revert to John Marsden Wright, and his heirs.

Gentlemen,—The evidence of Mr. Bleasdale is very strong, considering the knowledge he had of Mr. Marsden, in consequence of his long and intimate acquaintance ; and the positive evidence which he gives of receiving instructions from him apart from Mr. Wright ; that he did not converse with Mr. Wright upon the subject. There is no escaping from this alternative ; if his evidence be true, this is the will of Mr. Marsden, and Mr. Marsden was competent to make a will. If his evidence be false, it is one of the most wicked and atrocious frauds that ever was perpetrated ; it would have all the moral guilt of forgery, with even more of baseness. If the fact were, as stated by the other side, that Mr. Marsden had no mind, no capacity, Mr. Bleasdale might as well have subscribed the will with the dead hand of Mr. Marsden's corpse. One does not see any interest to himself, Mr. Bleasdale could have had ; all this is supposed to have been for the benefit of Mr. Wright and his family, with which he was closely and intimately connected, and who now appear to have been the principal objects of his bounty by his will. Mr. Bleasdale might have a great friendship for this family, and might shew that friendship, by giving them his own property ; it is a very different thing whether his friendship for them would induce him to commit so gross and wicked a fraud as is imputed to him.

What he has done for them would lead one to suppose that the family have some virtues which attached him to them. He had nothing to gain by this ; he had gone through life with great respectability, and we have not heard of any imputation on his character. But if this be not the will of Mr. Marsden, I do not see how a fouler reproach can be laid upon the memory of any man.

There is also the evidence of Mr. Sharp as distinctly in favour of Mr. Marsden's competency as that of Mr. Bleasdale himself.

Gentlemen,—It is impossible for you to come to either conclusion on this subject without rejecting the opinions of some,—without rejecting the memories of some of the witnesses ; perhaps it is impossible, without disbelieving some of the witnesses you have heard. In favour of the will, you have heard the opinions of many respectable witnesses who think Mr. Marsden competent, confirmed by the execution of the deeds,—by the writing of the letters—(if you think that Mr. Marsden composed them),—and by the positive evidence of Mr. Bleasdale, as to the preparation of the will, under Mr. Marsden's instructions.

On the other side, you have the evidence of persons of equal respectability who have come to an opposite conclusion, and, in support of them, the evidence of a great number of servants, and workmen, and other persons, who state acts of imbecility,—of timidity amounting to childishness,—and of abject submission to the power and control of Mr. Wright. If all this be correctly reported, it goes very strongly indeed to impeach the soundness of Mr. Marsden's mind, and the freedom of his will. You are to decide between the one and the other.

If this be a base and wicked conspiracy of Mr. Wright and Mr. Bleasdale to manufacture a will, and to get a man to sign it who had no mind and no will,—who had no free agency,—no knowledge of what he was doing,—it is a profligate, wicked, and atrocious project ; and every man who has a regard to justice, or who has the feelings of a man, would rejoice in its failure.



ed; they had married him early to a very prudent and discreet lady, of his own rank, and had induced him to make a proper settlement of his estates; they were entangled by those acts, and it was difficult for them to come forward afterwards with a commission of lunacy; but when they found that he had been inveigled into a marriage, and was so insensible as to be unconscious of the dishonour of his bed which he himself had witnessed, and they found they were liable to be deprived of his estate by a spurious issue, they did interfere, and interfered with success.

I can understand cases where families may be averse from disclosing facts which so nearly affect them; insanity is considered as a stain on a family; it is a disadvantage to a young person in settling in the world, if it be known that insanity is in the blood. Therefore I can conceive of persons in such cases taking no step to publish the circumstances which a commission must do. But the imbecility of one member of a family has no such effect; there is nothing in the exposure so far as regards others. This is not like the case of a son concealing the infirmity of his father; that one can very well understand; but this is the case of a cousin, who, for the last thirty years, had had no connexion whatever with Mr. Marsden; there were no circumstances which formed any objection on the score of delicacy. Admiral Tatham was under no obligation to Mr. Marsden, and he had no reason to think that if a will were made he should be benefited by it. If he thought of Mr. Marsden, as his case to-day represents him, I should have thought that it was not only his duty to himself to sue out a commission of lunacy, but that it was a duty to society; nay, that it was a duty to Mr. Marsden himself—if he understood that his relation was in the hands of a person who was an alien to the family; a person of low origin; of offensive manners; still more, if he suspected that that person was treating him with unkindness, it was more especially his duty. However, that step has not been taken, and you are to try the cause under the disadvantages which I have mentioned; and you are to form your judgment, on consideration of all the evidence on the one side and on the other; to hold the scales as equally as possible, and to say on which side the evidence preponderates.

Gentlemen, I have now given you the best assistance in my power by calling your minds to the general nature of the evidence; reading such parts as appeared to be most material, and making such observations as occurred to me upon the different parts of it; those observations are submitted to your consideration; it is not a cause for me to decide, but for you; it is a trial by the country, which country you are.

Before I conclude, there is one other observation I ought to make. Allusion has been made to some supposed prejudice, which it is thought has been excited upon the subject of this cause; and from what we have heard in the course of this investigation, I think it is apparent that that has been the case. Probably you are aware of this, from the circumstance of you, gentlemen, being selected as the Jury; all of you summoned from a distant part of the county. That measure has been resorted to by the authority of the Court of King's Bench, with the assent of both parties. That has been done in order that the cause should be tried by persons who have not even breathed the air of the vicinity of Hornby Castle, and who are unlikely, therefore, to have their minds prejudiced by the rumours on this subject, which may have been in circulation. The law has invested the superior Courts with this power, in order that the Jury which is to decide, should come to the consideration of the question with unbiassed minds. We







all know, that if the mind of any man has been pre-occupied by any opinion, it will not listen to the evidence for and against that opinion, with equal favour, and, therefore, in guarding against the possibility of a perversion of justice, from this the law proceeds upon that which is the basis of all human wisdom, the recognition of human infirmity.

Gentlemen, the exercise of this power, in this particular case was indispensable. I have reason to know that rumour and prejudice have extended far beyond the neighbourhood of this place, and even to the distance at which you reside. One gentleman who was summoned on this Jury, made application to me to be discharged; he grounded his application on an Act of Parliament, which exempted him from serving on a Jury, on account of an office which he at this time fills; and of course it was my duty to allow his claim; at the same time he said, "I assure you that I do not make this claim to avoid a laborious duty; but because long before I was summoned on this Jury, I had heard reports upon this subject, which have so influenced my mind, that I cannot conscientiously enter the jury box to decide the cause; and if I had not had a legal exemption, I would, when called upon, have challenged myself as unfit to sit." This conduct did that gentleman the highest honour, and I am bound to believe that if any of you had been circumstanced as he was, you would have challenged yourselves.

Gentlemen, you will now proceed to the consideration of your verdict. Take the observations which I have made, only as observations which have occurred to me upon the different parts of the case as they arose, not as giving any opinion as to what your verdict should be; that I am far from wishing or desiring.

You are to decide the cause upon the evidence which you have heard, and upon that evidence alone; that is your duty; a duty to which you are bound by the most solemn obligations; by your justice as men, and your hope as christians; you have appealed to the Searcher of all hearts, and the great Judge of heaven and earth, and have, as you so fulfil your duty, and only as you so fulfil it, invoked his help, in life, in death, and in judgment.

[At half-past three, p. m., the jury were about to retire, when his lordship again addressed them.]

Gentlemen,—would you wish for any refreshment before you retire; if so now is the time to mention it, as I cannot allow you any afterwards.

[The jury consulted together on this point.]

*A Juror.*—Yes, my lord, we should be glad of some now.

[The under Sheriff sent for refreshment.]

[During the time the jury were in waiting.]

*Mr. ARMSTRONG.*—I wish the jury would be so good as to look at the dates of those letters, and compare them with the post marks upon them.

*Mr. Baron GURNEY.*—Gentlemen, I omitted to point out to you that the post marks upon those three letters, which the learned counsel has just now alluded to, are very different from the dates of the letters; it is, like a great many other things in this cause, not to be accounted for; if Mr. Marsden himself had been living, he might have explained them; but he being dead and gone, you must put your own construction upon those circumstances that cannot be explained.

*A Juror.*—My lord, one of the jury has just received information of the death of his mother, and he thinks his mind is hardly in a state fit to do justice in deciding this cause, and therefore he would beg to be excused.

[The gentleman alluded to was Mr. James Hibbert Wanklyn, merchant, in Cheetham.]

Mr. CRESSWELL.—It is impossible to ask that gentleman to remain in the jury box under such circumstances.

Mr. WIGHTMAN.—Certainly not; I have no objection on our side to agree to that, as it is impossible to expect him to remain.

Mr. Baron GURNEY.—As the gentlemen on both sides consent that this gentleman, who, I understand, is Mr. Wanklyn, should be allowed to retire, he may be discharged.

[Mr. Wanklyn accordingly withdrew.]

Mr. Baron GURNEY.—Gentlemen, you may now have all the letters that have been referred to.

The jury requested to have the instructions for the codicil, and to know the date of Mr. Bleasdale's will, whether before or after the trial at York; they were told that it was dated in the January prior to that trial.

These were accordingly put into a bag, and handed to the jury, who, having got some refreshment while in the box, retired at about a quarter to four o'clock.

The jury then left the box, and remained inclosed till a quarter before seven P. M., when they came to the Judges' lodgings, where the Court was opened *pro forma*, by Mr. Waters, the Judges' officer, and on being asked if they were agreed upon their verdict, the Foreman answered, yes, we find for the *Defendant*.

Mr. Baron GURNEY.—That is to say, gentlemen, you find for the will.

*Juror*.—Yes, my lord, that is what we find.

Mr. Baron GURNEY.—Now, gentlemen, as you have found a verdict for the defendant, I think it proper to state to you, that I had omitted in my address to you a material observation upon Mr. Procter, the clergyman, of the parish in which Mr. Marsden lived, being called in to attest the execution of the will; that goes strongly to confirm Mr. Bleasdale's testimony.

The jury were then thanked for their attendance, and discharged.

*Verdict for the Defendant.*





## APPENDIX.

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### AFFIDAVIT OF MR. BALDWIN.

(Page 153, vol. 1.)

*In the Common Pleas,*

John Baldwin, of the town of Lancaster, in the County Palatine of Lancaster, gentleman, one of the attornies of His Majesty's Court of King's Bench, at Westminster, and one of the Commissioners named in the Writ of *Dedimus Potestatem* hereunto annexed, for taking the acknowledgment of the fine hereunto also annexed, maketh oath and saith, that he knows John Marsden, the Conusor named in the said fine, that the purport and effect of such fine was at the time of the acknowledgment thereof fully explained to him by this deponent, that the same was duly signed and acknowledged by the said John Marsden, in the presence of this deponent, and of George Wright, of Hornby Castle, in the said County Palatine of Lancaster, gentleman, one other of the Commissioners in the said Writ named, on the day and year mentioned in the Caption thereof; that the said John Marsden, and also this deponent, and the said George Wright, were at the time of the taking and acknowledging the said fine, all of full age and competent understanding, and that the said John Marsden knew the same to be a fine to pass his estate and estates.

JOHN BALDWIN.

Sworn at Lancaster aforesaid,  
the fourth day of July, in the  
year of our Lord, 1795.—  
Before me

I. BARROW, a Commissioner, &c,

## COPY OF THE WILL OF JOHN MARSDEN, ESQ.

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This is the last Will and Testament of me, John Marsden, of Hornby Castle, in the county of Lancaster, Esquire. I direct that the expenses of my funeral, and of proving this my will, may be paid and satisfied as soon as may be after my decease. I give unto my god-son, John Marsden Wright, the eldest son of my friend George Wright, of Hornby Castle aforesaid, gentleman, the sum of six thousand pounds sterling, and unto my god-daughter, Margaret Wright, daughter of the said George Wright, the sum of five thousand pounds sterling, to be severally paid to them at the end of twelve calendar months next after my decease. And I hereby ratify and confirm the gift and conveyance by me made of the freehold farm and lands called Upper Salter, in the county of Lancaster, unto or for the benefit of the said John Marsden Wright, his heirs and assigns, for ever, free from all incumbrances whatsoever. And as to all my ready-money, securities for money, and all other my personal estate and effects, whatsoever and wheresoever, and of what nature or kind soever, not otherwise bequeathed or disposed of by this, my will, I give and bequeath the same unto the said George Wright, his executors and administrators, upon trust, as soon as conveniently may be, after my decease, to sell, recover, get in, and convert the same into money, and to apply the clear monies therefrom arising, and so far as the same will extend, in or towards the payment of my funeral and testamentary expenses, the debts which I shall owe at the time of my decease, and the pecuniary legacies bequeathed by this my will, or which I shall give by any codicil or codicils thereto. And I give and devise my advowson and right of patronage of the vicarage of Gargrave, in the county of York, unto and to the use of the said John Marsden Wright, his heirs and assigns, for ever. And whereas I am seised of or beneficially entitled to the honor and manor of Hornby, and other freehold manors, messuages, lands, and hereditaments, including valuable wood lands, mills, coal mines, and quarries, situate in the said county of Lancaster, subject, nevertheless, to and charged with several sums of money due on mortgage of various parts of the said estates. And whereas, for some time past, a system of management hath been carried on under the superintendence of my confidential friend the said George Wright, with a view to the improvement thereof, and the gradual liquidation of the incumbrances affecting the same; and I am particularly







anxious that a similar system shall be acted upon after my decease, under his superintendence, and whom I therefore intend to invest with the most ample powers in that behalf, during the period hereinafter mentioned. Now, I do hereby give and devise all that, my said honor and manor of Hornby, and all and singular, my manors, messuages, lands, tenements, and hereditaments, in the said county of Lancaster, and all other my real estate whatsoever, whether in possession, reversion, remainder, or expectancy, of which I am seised or entitled, or have any power to dispose of by this my will, and not hereinbefore specifically devised, unto and to the use of the said George Wright, his heirs and assigns. Nevertheless, upon, to, and for the several trusts, intents, and purposes, and with, under, and subject to the powers, provisoes, declarations and directions hereinafter expressed and contained concerning the same; that is to say, upon trust that he, the said George Wright, do and shall, from time to time, during the term of twenty-one years, to commence and be computed from the time of my decease, permit and suffer the person or persons who, according to the limitations of the settlement hereafter directed to be made, would, for the time being, be entitled to the possession of my said real estates, to reside in and occupy my capital messuage or mansion house called Hornby Castle, with the offices, gardens, plantations, and grounds, including the new deer park contiguous thereto, and usually held and enjoyed by me therewith, without paying any rent for the said premises, but keeping the same in good repair. And upon further trust, that he, the said George Wright, do and shall, from time to time, during the said term of twenty-one years, let and demise, cultivate, work, and manage, all and singular, my said real estates hereinbefore devised, and every part thereof, except the said mansion-house and premises, during such occupation thereof as aforesaid, but including the said woodlands, mills, coal mines, and quarries, in such manner, and according to such plan and system as he, the said George Wright, shall in his own judgment think proper and most accordant with my views and intentions in that behalf, and do and shall collect and receive all the rents and yearly proceeds which shall arise or become due from or in respect of the same estates, and expend and apply a competent part thereof, in carrying such plan and system of management into effect, and at his discretion to use and employ all or any part of the machinery, stock, implements, and materials whatsoever, which shall belong to me at my decease, for answering the purposes aforesaid; and upon trust that the said George Wright do and shall, yearly and every year, during the said term of twenty-one years, set apart and appropriate out of the clear rents and yearly profits and proceeds of my said real estates, hereinbefore devised, the sum of two thousand pounds of lawful money of Great Britain, as a fund for the liquidation of the mortgages and other incumbrances affecting the same, and for the

other purposes hereinafter expressed. And in the next place, to deduct and retain to and for the proper use and benefit of him, the said George Wright, the clear yearly sum of one thousand pounds, of like lawful money, by equal quarterly payments, to commence and be computed from my decease, which said yearly sum I give him, as a remuneration for his past and future services, and as a memorial of the friendly and sincere regard I entertain towards him. But I direct, that the same shall not be considered as a satisfaction of any sum or sums of money, which may be due from me to him, at the time of my death, on account of his present or future salary, or on any other account whatsoever; and shall be payable, exclusive of all costs, disbursements, and expences whatsoever, to be incurred or expended in or about the performance or execution of the trusts of this my will. And as to the clear and ultimate surplus of the rents and yearly profits and proceeds of all and singular my said real estates, which shall remain after payment of the several yearly, and other sums of money, costs and expences, hereinbefore directed or authorized to be paid, retained, or applied thereout: upon trust, that he the said George Wright, do, and shall, from time to time, during the said term of twenty-one years, account for, and pay the said clear and ultimate surplus unto the person or persons, who, according to the limitations of the settlement hereinafter directed, would for the time being be entitled to the possession of my said real estates, for his and their own use and benefit. And, I do hereby expressly declare and direct, that it shall and may be lawful to and for the said George Wright, at any time during the said term of twenty-one years, to grant leases of all or any part of my real estates, for any term not exceeding twenty-one years in possession, at such yearly rents, (without taking any fine or premium) and under and subject to such covenants and stipulations on the lessee's part, for the management, cultivation, and improvement of the premises therein comprised, as my said trustee shall think proper and expedient; and also, that it shall and may be lawful to and for the said George Wright, either to work and carry on my said mills, coal mines or collieries, and quarries, including my ancient mill at Hornby aforesaid, and to open and work any new coal mines or collieries, or quarries, in or upon all or any of my manors, or any part or parts of my said real estates, and out of the proceeds thereof respectively, or out of the general rents and profits of my real estates, to pay and discharge the costs and expences of working and carrying on the same respectively; and to use and employ all and singular the engines, tools, utensils, stock and implements, and personal effects whatsoever, in, about, or belonging to my said mills, coal mines, and quarries respectively, for the purposes aforesaid, or otherwise, at the option and discretion of him the said George Wright; from time to time, to demise or lease my said mills, coal-





mines or collieries and quarries, and every or any coal-mines, collieries or quarries, to be opened in or upon my said manors or estates, unto any person or persons, for any term or number of years, not exceeding twenty-one years from the time of making each such respective lease ; together with all necessary or convenient powers, privileges and liberties for winning, working, leading, taking or carrying away, and vending coals or other minerals, stone and other material, to be gotten, raised or produced therefrom. And also, all other ways, way-leaves, passages, and watercourses, and rights and liberties of ingress and egress and regress, to and from the said coal-mines and quarries respectively ; in, through, or over any part or parts of the lands and grounds contiguous thereto, so as there be reserved, upon every such demise or lease, the best and most improved yearly or other rent or rents, that in the judgment of the said George Wright can respectively be obtained for the same ; and so as in every such lease, there be contained a clause or re-entry for non-payment of the rent or rents, to be thereby respectively reserved. Provided also, and I hereby further authorize and empower the said George Wright to repair or pull down any messuages or other buildings in or upon my said estates, except my said capital messuage and offices, and to erect any new messuages or other buildings in or upon the same, including any new lodges or other offices, to be annexed to the said capital messuage, and to expend any sum or sums of money in fencing, draining or planting the said estates, or any part or parts thereof, and to fell such timber, and dig for and use such stone and brick, earth, or other materials, upon my said manors and estates, or any of them, as shall be necessary for the purposes of making or carrying on such buildings, repairs, fencing, draining, or planting, or other improvements ; and to make, or consent to, any inclosures of commons, or waste lands, in all or any of the townships or parishes in which my said manors and real estates are situate ; and to commence and prosecute all such actions, or other proceedings, for the protection of my right of free-warren, or any other of my manorial rights ; and from time to time to fell and cut down all such timber and timber-like trees, woods and underwoods, for the time being growing upon my said real estates, as he shall think expedient ; and to sell and dispose of the same by public auction or private contract ; and to investigate, adjust, settle, and allow the accounts of all agents, receivers, or other persons employed in the management of my said estates under my said trustee ; and generally during the said term of twenty-one years, to act in the management of my said real estates, with as full and ample a discretion for the purposes of this my will, as I myself could have done if living, without any interference or interruption whatsoever by or on the part of the persons for the time being beneficially interested in my said estates under this my will : and I do hereby declare and direct that the said George Wright shall and do, from time to time, apply and disposes

of the said yearly sum of two thousand pounds hereinbefore authorized and directed to be retained by him out of the yearly rents and profits of my said real estates, as well in or towards the liquidation and discharge of all and singular sum and sums of money which shall, for the time being, be or remain specifically charged, by way of mortgage or otherwise, upon all or any part of my said real estates, and the interest attending the same, and in payment of the expences of all or any permanent improvements to be made in or upon my said real estates, under the powers contained in this my will, as also of all and singular other the debts which I shall owe at the time of my decease, and of my funeral and testamentary expences, and the pecuniary legacies given by this my will, or to be bequeathed by any codicil or codicils thereto, or such part or parts thereof respectively as my personal estate shall be insufficient to pay and satisfy, in such order, course and manner, as the said George Wright shall, in his discretion, think proper: Provided always, and I hereby expressly declare and direct, that, in order to enable the said George Wright the more speedily to pay off and discharge all or any of the debts, legacies, or other charges or incumbrances, for the time being charged upon or affecting my real estates by virtue of this my will, or otherwise, and all or any debts or sums of money to be incurred or expended in permanent improvements upon my said real estates, it shall and may be lawful to and for the said George Wright at any time or times, and from time to time, during the said term of twenty-one years computed from my decease, by mortgage of all or any part or parts of my said real estates, or by sale of a competent part or parts thereof, except my said mansion-house, with the appurtenances and offices, gardens, plantations, new deer-park, and grounds contiguous thereto, and usually held and enjoyed by me with the said mansion-house; or by the sale of timber and other trees, woods and underwoods, to be felled and cut down under the powers contained in this my will, or by such other ways and means as to the said George Wright shall seem expedient, to raise and levy any sum or sums of money which shall, from time to time, be required for the immediate discharge of all or any of such debts, legacies, incumbrances, and expences as aforesaid, and to pay and apply the sum and sums of money, so to be raised, in or towards the discharge thereof accordingly, in such order, course, and manner, as he the said George Wright shall think fit; and I declare and direct that the receipt of the said George Wright, in writing under his hand, shall be an effectual discharge to any purchaser or purchasers, mortgagee or mortgagees, or any person or persons making any payment to him, under the trusts of this my will, for so much money as in such receipt shall be acknowledged or expressed to have been received, and shall completely exonerate him, her, and them respectively from all responsibility for the subsequent loss, misapplication, or non-application thereof, and from all inquiry into the necessity or expediency of raising the same for the purposes of this







my will: Provided always, and I hereby declare and direct that the said George Wright shall and do, from time to time during the continuance or at the expiration of the said term of twenty-one years, lay out and invest the clear surplus of all and singular the monies hereinbefore authorized or directed to be made or retained from and out of my said real estates, or the yearly rents and profits thereof which shall or may remain after the discharge of the debts, incumbrances, legacies, expences, improvements, and other sums of money, hereinbefore directed to be paid and discharged thereout, or such parts thereof, as the said George Wright may think it expedient, immediately to pay and satisfy in the purchase in his own name, of messuages, lands, and hereditaments, of an estate of fee-simple, in possession, free from incumbrances, which shall, in his judgment, be convenient to be annexed to, and held and enjoyed with my said real estates, hereinbefore devised, or some part or parts thereof, and do and shall stand, and be seized, of all and singular messuages, lands, and hereditaments, so to be from time to time purchased as aforesaid; upon, to, and for such and the same or the like trusts, interests and purposes, and with, under, and subject to such and the same powers, provisoes, declarations, restrictions, and regulations, as are in and by this my will, declared, created, or contained, concerning my real estates hereinbefore devised, or such part of them, as shall for the time being subsist, or be capable of taking effect, and do and shall, in the meantime, until a convenient purchase or purchases can be found, invest the said trust monies in the name of him the said George Wright, in the public funds, or on government or real securities, bearing interest; and do and shall pay and apply the dividends, interests, and yearly proceeds thereof in the same manner, as the rents and yearly profits of my said real estates; and I do hereby declare and direct, that the said George Wright, his heirs or assigns, shall, and do, at the expiration of the said term of twenty-one years, legally and effectually convey, settle, limit, and assure, as well, all and singular my real estates hereinbefore devised to him the said George Wright, or such parts thereof as shall not have been sold in pursuance or by virtue of this my will, as all and singular the messuages, lands, and hereditaments, which shall, or may be purchased, pursuant to the direction hereinbefore contained—to, for, and upon the several uses, trusts, intents and purposes, and under and subject to the several powers, provisoes, limitations, conditions, and restrictions hereinafter expressed, declared or directed, concerning the same, or such and so many of them as shall for the time being subsist, or be capable of taking effect: that is to say, to the use, intent and purpose, that he, the said George Wright, and his assigns, shall thenceforth, during his life, receive thereout one clear annuity, or yearly rent charge, of one thousand pounds, by equal quarterly payments, in continuation of the like yearly sum

hereinbefore directed to be retained by him as aforesaid, with the usual power of distress for the recovery thereof when in arrear, and subject and without prejudice to the said rent charge, and the remedy for recovery thereof,—to the use of my relation, the Rev. Anthony Lister, of Gargrave aforesaid, clerk, and his assigns, during his natural life, but subject to impeachment of waste, with remainder to a trustee or trustees during his life, upon trust, for preserving contingent remainders, with remainder to the use of Charles John Lister, son of the said Anthony Lister, and his assigns during his life, but subject to impeachment of waste, with remainder to a trustee or trustees during his life, upon trust, for preserving contingent remainders, with remainder to the use of the first and every other son of the body of the said Charles John Lister, severally and successively one after another according to seniority in tail male, with remainder to the use of my godson, the said John Marsden Wright, and his assigns during his natural life, but subject to impeachment of waste, with remainder to a trustee or trustees during his life, for preserving contingent remainders, with remainder to the use of the first son of the body of the said John Marsden Wright, and the heirs male of his body of such first son, with remainder to the use of the second, third, fourth, and every other son of the said John Marsden Wright, severally and successively one after another, according to seniority in tail male, with remainder to the use of the right heirs of the said John Marsden Wright for ever : provided nevertheless, and I hereby expressly declare, that, the said Anthony Lister, Charles John Lister, and John Marsden Wright respectively, and their respective issue male, do and shall, as and when and so soon as they respectively shall become entitled to the possession of my said real estates, or any part thereof, or to the actual enjoyment of the surplus rents and profits thereof, under this my will, assume the surname of “ Marsden,” only, and in and by the surname of “ Marsden,” and no other, thenceforth for ever continue to be named and stiled in all letters, deeds, instruments and writings, and upon all occasions whatsoever, and do and shall use and bear the arms of “ Marsden,” as the same are used and borne by me, and do and shall within one year next after becoming so entitled as aforesaid, apply for and endeavour to obtain an act of parliament, or other proper authority, enabling the several persons, from time to time, succeeding to my said estates, to take the said surname, and bear the said arms accordingly ; and that in case any of them, the said Anthony Lister, Charles John Lister, and John Marsden Wright, or their respective issue male, who, for the time being, shall become entitled as aforesaid, shall not, when and so soon as they shall severally and respectively become so entitled, assume and thenceforth continue to use the said surname of “ Marsden” exclusively, and use and bear the arms of “ Marsden,” in manner aforesaid ; but shall neglect, decline, refuse, or discontinue, so to





do, then and in every such case, the estate or interest of or to which every such person so neglecting, declining, refusing, or discontinuing, shall be or otherwise would have become seized or entitled of, and in all and singular my said real estates, shall thenceforth cease and determine, as if such person being tenant for life, were actually dead, or being tenant in tail, were actually dead without issue male, anything hereinbefore contained to the contrary, in anywise notwithstanding. And I direct that in the settlement to be made as aforesaid, there shall be inserted a clause or condition to that effect. Provided also, and I hereby further declare my will to be, that the said Anthony Lister shall and do, within three calendar months next after my decease, or within three calendar months next after my said godson John Marsden Wright, shall have taken holy orders as a Priest of the Church of England, resign the vicarage of Gargrave aforesaid, of which he the said Anthony Lister is at present incumbent, to the intent that the said John Marsden Wright shall and may be duly presented and inducted thereto. And that in case the said Anthony Lister shall refuse or neglect to resign the said vicarage, within the period aforesaid, and to use his utmost endeavours to procure the induction of the said John Marsden Wright to the said vicarage; then, and in such case, and immediately thenceforth, the estate for life and every other interest in my said real estates heretofore given, to or provided for the said Anthony Lister shall cease and determine in the same manner, as if he the said Anthony Lister had actually departed this life, anything hereinbefore contained to the contrary in anywise notwithstanding: provided also, and I hereby declare and direct, that it shall and may be lawful to, and for each of them, the said Anthony Lister, Charles John Lister, and John Marsden Wright, as and when he shall be actually entitled to the possession of my said estates, or to the receipt of the surplus rents, and profits thereof, by any deed or deeds, writing or writings, to be by him duly sealed and delivered in the presence of and attested by two or more credible witnesses, or by his last will or any codicil thereto, or other testamentary writing to be signed and published by him, in the presence of, and attested by, three or more credible witnesses, to charge all or any part of my said real estates, with the raising and payment of any sum or sums of money, for the portion or portions of all or any of the daughters or younger sons of the person making such appointment, or charge not exceeding the sum of one thousand pounds sterling, for any one such child, at such time or respective times, and with such annual sums of money, in the mean time (not exceeding the interest of such portion or portions at five pounds per cent. per annum, for the maintenance or education of such daughters or younger sons respectively as he shall appoint. And I do hereby expressly direct, that in the settlement to be made as aforesaid, there shall be inserted a clause

or provision to that effect: and it is also my will, that in such settlement, shall be inserted a power or powers, enabling the said Anthony Lister, Charles John Lister, and John Marsden Wright, as and when they shall respectively be entitled as aforesaid, and also the guardians of infant tenants in tail, for the time being, to make leases of all or any part or parts of my said real estates, for any term not exceeding twenty-one years, in possession at the best and most improved yearly rents that can reasonably be obtained, without taking any fine or premium in respect thereof, so as there be contained in every such lease a condition of re-entry for non-payment of the rent thereby reserved; and so as the respective lessees be not made punishable of waste, and execute counterparts of such leases. And I further direct, that in such settlement as aforesaid, shall be inserted the usual powers of sale and exchange, and all such other powers, clauses, and provisions, as are usual in similar settlements, or as counsel shall advise and approve of in that behalf: and I hereby further declare my will and mind to be, that, if the said George Wright shall at any time, during the said term of twenty-one years, computed from my death, depart this life, or be desirous to retire, and be discharged from the future performance and execution of the trusts, powers, and authorities hereby in him vested or reposed, then and in such case it shall and may be lawful to and for the said George Wright, by any deed or instruments in writing, to be by him sealed and delivered in the presence of and attested by two or more credible witnesses, or by his last will and testament in writing or any codicil thereto, or other testamentary writing, to be by him signed and published in the presence of and attested by three or more credible witnesses, and for want of such appointment then to and for the executors or administrators of him, the said George Wright, from time to time, to nominate and appoint some fit person or persons, to be a trustee or trustees of my said real estates, for carrying into effect the purposes of this my will; and that upon every such nomination taking effect, my said real estates shall be conveyed unto, and effectually vested in such new trustee, or trustees upon the trusts, hereby declared, concerning the same respectively, or such of them as shall subsist, or be capable of taking effect: And that every such new trustee to be appointed as aforesaid, shall have and may exercise all such powers of selling, mortgaging, leasing, working mines, felling timber, purchases of lands, and giving receipts and discharges, and all other powers, authorities, and discretion whatsoever, as the said George Wright could or might have or exercise, if living, and continuing to act as a trustee of this my will: And I direct, that an annuity, or yearly sum of four hundred pounds shall be retained by the acting trustee or trustees for the time being of this my will, by equal quarterly payments out of the rents and yearly profits of my said real estates, over and above his or their actual disbursements, as a recompence







for the trouble incident to the management of the same estates : And I hereby expressly authorize and empower the said George Wright, and the trustee or trustees for the time being of this my will, from time to time, during the said term of twenty-one years, to nominate, and appoint, or employ such persons to act as his or their bailiffs, overseers, managers, or agents, of or for my said real estates, or any part or parts thereof; and also such other persons to act as his or their attornies, solicitors, agents, or auditors, for auditing, settling, and allowing, the accounts of such bailiffs, overseers, managers, or agents, or for transacting, instituting, or carrying on any act, proceeding, matter, or thing whatsoever which may appear necessary or expedient, in or about the management of my said estate, or the execution of the trusts aforesaid, and to pay or allow to the bailiffs, overseers, managers, attornies, solicitors, or agents respectively, to be so appointed or employed as aforesaid, such salaries, wages, or other compensations, charges, and expenses, as such trustee or trustees shall think fit, and to be considered as part of the expenses incident to the execution of the trusts aforesaid. And lastly, I do hereby declare and direct, that the said George Wright, his heirs, executors, and administrators, and the trustee or trustees for the time being of this my will, shall not be charged or chargeable with any more money than he or they respectively shall actually receive by virtue of this my will, and shall not be answerable or accountable for the act or failure of any agent, receiver, or other person employed by or acting under the said trustee or trustees for the time being, in the management of my said estates; or of any banker or other person with whom or in whose hands any of the said trust-money shall be deposited or lodged for safe custody, or otherwise; or for the deficiency in title or value of any lands or other hereditaments, to be purchased as aforesaid, or for any other misfortune, loss, or damage whatsoever, which may be incident to the execution and performance of the trusts of this my will, except the same shall happen through the wilful neglect or default of such trustee or trustees respectively; and that the said George Wright, and every such succeeding trustee as aforesaid, shall be allowed and may retain to and reimburse himself and allow to his co-trustee agent or agents out of the monies which shall come to his hands by virtue of this my will, all such costs, charges, and expenses whatsoever, as he or they respectively shall or may pay, suffer, sustain, expend, or be put unto, in or about the management of my said real estates, or otherwise in or about the exercise and performance of the trusts of this my will; and I constitute and appoint the said George Wright sole executor of this my will. In witness whereof, I, the said John Marsden, the testator, have to this, my last will and testament, and a duplicate thereof, contained in thirteen sheets of paper, set my hand to the first twelve

sheets, and my hand and seal to this thirteenth and last sheet thereof, this fourteenth day of June, in the year of our Lord one thousand eight hundred and twenty-two.

JOHN MARSDEN, (L.S.)

Signed, sealed, published, and declared by the said John Marsden, the testator, as and for his last will and testament, in the presence of us, who, in his presence, and at his request, and in the presence of each other, have hereunto subscribed our names as witnesses thereto.

EDMD. TATHAM.

RT. PROCTER.

GILES BLEASDALE.

I, John Marsden, of Hornby Castle, in the County of Lancaster, Esquire, do make, publish, and declare this codicil to my last will and testament in manner following; that is to say, I give and devise unto Mr. George Wright, in my said will named, his heirs and assigns, as well all that my freehold messuage, with the appurtenances, situate in Hornby, lately purchased by me of Mr. Giles; as also, all other hereditaments whatsoever, now vested in me, or of which I have now the power to devise and not already devised by my will. Upon the like trusts, and for the like intents and purposes in all respects as are in and by my said will expressed and declared of and concerning the hereditaments thereby devised to him. And I hereby ratify and confirm my said will, with this addition thereto. In witness whereof, I have hereunto set my hand and seal this twenty-third day of February, in the year of our Lord one thousand eight hundred and twenty-five.

JOHN MARSDEN, (L. S.)

Signed, sealed, published, and declared by the said John Marsden, the testator, as and for a codicil to his last will and testament, in the presence of us, who, in his presence, and at his request, and in the presence of each other, have hereunto subscribed our names as witnesses thereto.

EDMD. TATHAM.

RT. PROCTER.

GILES BLEASDALE.





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